THE

LEGISLATIVE ENACTMENTS

OF

CEYLON.

By Authority.

LONDON:
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PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1874.

PREFACE.

THIS Edition of the Legislative Enactments in force in this Colony was prepared in pursuance of the provisions of the Ordinance No. 6 of 1867, entitled "An Ordinance for compiling a new Edition of the Enactments in force in this Colony" (See pages 856–7).

The following announcement appeared in the Government Gazette of the 16th November 1867 :

HIS EXCELLENCY the GOVERNOR has been pleased, in virtue of the powers vested in him by the Ordinance No. 6 of 1867, to issue his Commission to the following gentlemen constituting them Commissioners for compiling a new edition of the Enactments in force in this Colony, viz. :—

The Honourable Sir E. S. CREASY, Kt., Chief Justice,
and
The Honourable R. F. MORGAN, Queen's Advocate.

His Excellency has also been pleased, on the recommendation of the Commissioners, to appoint George Edward Swan, Esquire, to be Secretary to the Commission.

By His Excellency's Command,
WILLIAM CHAS. GIBSON,
Colonial Secretary.

Colonial Secretary's Office,
Colombo, 15th November 1867.

The Ordinance No. 6 of 1867 was afterwards amended by the Ordinance No. 5 of 1869, entitled "An Ordinance to repeal certain Enactments and to make further provisions relating to the new Edition of the Enactments authorised by the Ordinance No. 6 of 1867" (pages 1007–8); and by the Ordinance No. 7 of 1872, entitled "An Ordinance relating to the new Edition of the Enactments in force in this Colony," which is given below :

W. H. GREGORY.

An Ordinance relating to the new Edition of the Enactments in force in this Colony.

WHEREAS it is expedient to make further provision relating to the new Edition of the Enactments in force in this Colony : it is Preamble.

hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Section 4 in Ordinance No. 6 of 1867 repealed, and other provision made instead thereof.

1. The fourth section of the Ordinance No. 6 of 1867, entitled "An Ordinance for compiling a new Edition of the Enactments in force in this Colony," is hereby repealed, and instead thereof it is enacted that every copy of the said edition shall be stamped with the seal of this Colony, and the copies so stamped shall, in all courts and upon all occasions whatsoever, be taken, deemed, and held to be primâ facie evidence that they contain the only lawful proclamations, regulations, ordinances, and charters in force therein from the date of the first and up to the date of the last Enactment inserted therein: Provided always, that nothing in this Ordinance contained shall apply to any operation already affected by, or act done under any proclamation, regulation, ordinance, and charter omitted in the said copies or of any right title, obligation, or liability acquired or accrued under any such proclamation, regulation, ordinance, or charter.

Meaning of "proclamations" in No. 4 of 1867.

2. The "proclamations" referred to in the said Ordinance shall be deemed to include the proclamations issued by the Government before the year one thousand eight hundred and thirty-four, and not any issued since.

This Ordinance and Ordinances 6 of 1867 and 5 of 1869 to be deemed one.

3. This Ordinance and the Ordinances No. 6 of 1867 and No. 5 of 1869 shall be read as one Ordinance.

Passed in Council the eleventh day of December one thousand eight hundred and seventy-two.

JAMES SWAN,
Clerk to the Council.

Assented to by His Excellency the Governor, the nineteenth day of December one thousand eight hundred and seventy-two, and published by his order.

HENRY T. IRVING,
Colonial Secretary.

A

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OF ALL

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ORDINANCES

OF THE

GOVERNMENT OF CEYLON.

1.

Proclamation of 23rd September 1799.

1. Whereas it is His Majesty's gracious command that, for the present and during His Majesty's will and pleasure, the temporary administration of justice and police in the settlements of the island of Ceylon, now in His Majesty's dominion, and in the territories and dependencies thereof, should, as nearly as circumstances will permit, be exercised by us in conformity to the laws and institutions that subsisted under the ancient government of the United Provinces, subject to such deviations in consequence of sudden and unforeseen emergencies, or to such expedients and useful alterations, as may render a departure therefrom either absolutely necessary and unavoidable or evidently beneficial and desirable.

2. We therefore, in obedience to His Majesty's commands, do hereby publish and declare, that the administration of justice and police in the said settlements and territories in the island of Ceylon, with their dependencies, shall be henceforth and during His Majesty's pleasure exercised by all courts of judicature, civil and criminal, magistrates, and ministerial officers, according to the laws and institutions that subsisted under the ancient government of the United Provinces, subject to such deviations and alterations by any of the respective powers and authorities herein-before mentioned, and to such other deviations and alterations as we shall by these presents, or by any future Proclamation, and in pursuance of the authorities confided to us, deem it proper and beneficial for the purposes of justice to ordain and publish, or which shall or may hereafter be by lawful authority ordained and published.

The institutions which subsisted under the late Dutch Government to continue in force, subject to such alterations, &c.

3. And whereas it having been represented to His Majesty that the practice of proceeding by torture against persons suspected of crimes, and of punishment after conviction in many capital cases

Torture and barbarous modes of punishment

formerly existed.

by breaking upon the wheel and other barbarous modes of execution, had prevailed in the said settlements on the Island of Ceylon, it was His Majesty's will and pleasure that we should wholly abolish those forms of trial and punishment, which humanity condemns and experience has shown to be less efficacious in the prevention of crimes than more lenient and equitable proceedings.

Practice of torture and barbarous modes of punishment abolished.

4. We therefore do hereby abolish throughout all and every the said settlements and territories and their dependencies within our government, the practice of proceeding by torture against any person or persons suspected of any crime or crimes, and we do hereby also abolish the practice of inflicting punishment on any person or persons convicted, or who shall or may be convicted of any crime or crimes, by breaking on the wheel, mutilation, or other barbarous modes of punishment and execution; and the same are hereby abolished accordingly. And we do ordain and appoint that all capital punishment shall be inflicted by hanging the offender by the neck until he be dead, and not in any other manner whatsoever; provided always, nevertheless, that it shall and may be lawful for the Governor for the time being, in special cases, and at the petition of the party convicted, to commute the punishment of hanging for that of decapitation, and by warrant under his hand and seal to authorize and command the execution of such offender by decapitation accordingly.

Offenders to be hanged.

Decapitation instead of hanging.

Paragraphs 5–7 repealed.

The practice of procuring confession by torture abolished.

8. And whereas, by the criminal law as administered under the Government of the United States, no sentence of death could be legally pronounced against any offender, however conclusive the evidence given against him might be, unless he confessed his guilt, for the purpose of obtaining which confession it was the practice to pronounce a sentence of torture against the prisoner, and as on the one hand neither the influence of promises nor the dread or menace of torture will hereafter be employed to obtain from offenders a confession of their guilt, so on the other hand public justice requires that the laws shall be duly maintained and carried into execution without being impeded by want of the confession of the offender, and it is therefore expedient that the necessity of obtaining such confession should be removed: we do therefore direct and ordain that in all criminal cases the court shall in future proceed to pronounce sentence according to law and in the evidence given, and in manner and form prescribed by these presents, without requiring the confession of the prisoner, any law of the United States, provincial or other statute, usage, or custom to the contrary notwithstanding.

Paragraphs 9–24 repealed.

Liberty of conscience and the free exercise of religious worship allowed.

25. And we do hereby allow liberty of conscience and the free exercise of religious worship to all persons who inhabit and frequent the said settlements of the Island of Ceylon, provided always, that they quietly and peaceably enjoy the same without offence or scandal to Government.

Paragraphs 26, 27 repealed.

2.

Proclamation of 3rd May 1800.

1. Whereas it is the most earnest wish of our heart, as it is our chief duty, to extend to all classes of His Majesty's subjects on this Island the blessings of His paternal Government; we have taken into our serious consideration the evils under which many landholders in these settlements labour, either from the uncertainty of their tenure or from the inconveniences with which it is clogged, to relieve them from which, and to enable every man to enjoy with security the fruits of his industry, we hereby make known and declare,

2. On and after the first day of May in the year of our Lord one thousand eight hundred and one, all land within these settlements now held in undivided tenure by more than one proprietor shall pay to Government the tax of one fifth part of its produce until the same be divided among the said proprietors, after which division the said tax shall be reduced to one-tenth, excepting where the said land be subject to the payment of Ande, or any proportion amounting to or exceeding one fourth part, the payment of which shall still continue as heretofore, or where the said land be held on tenure of service concerning which particular provision is herein-after made.

Paragraphs 3–17 repealed.

3.

Proclamation of 3rd September 1801.

Paragraphs 1–4 repealed.

5. On and after the first day of May in the year of our Lord one thousand eight hundred and two next ensuing, all obligation to service on tenure of lands throughout these settlements shall cease, and lands held duty free at this present time on account of such service shall on and after the said day pay to Government one-tenth of their produce if high lands, and one fifth part of their produce if low lands, excepting only such lands as were formerly Mallapalla. Nellapalla, Ratninda, or Ande, which will continue from the said first day of May one thousand eight hundred and two to pay one-fourth of their produce to Government.

Paragraphs 6–8 repealed.

4.

Proclamation of 22nd April 1803.

Paragraphs 1–7 repealed.

8. In all cases where no share of the produce of the land transferred shall have been reserved to Government by any specific grant or title, or by any general legislative provision, the share to be reserved for Government is hereby fixed at one fifth part of the produce of all low grounds in the districts of Chilaw, Colombo,

Galle, Matura, and the Mahagampattoo, and at one tenth part of the produce of all other lands throughout these settlements, excepting such gardens as do not contain the number of ten fruit bearing trees, which shall remain free of all direct contribution to Government.

Paragraphs 9, 10 repealed.

5.

EXTRACT from the MINUTES of a COUNCIL held at Colombo this 5th day of August 1806.

Present:

His Excellency the Governor.
The Honourable Alexander Johnston, Esq.
Robert Arbuthnot, Esq.

The Chief Justice submits to the Governor in Council the code of Mahomedan laws observed by the Moors in the province of Colombo, and acknowledged by the head Moormen of the district to be adapted to the present usages of the caste.

Resolved on the motion of the Chief Justice that the same be published, and that they be observed throughout the whole of the province of Colombo.

SPECIAL LAWS CONCERNING MAURS OR MAHOMEDANS.

FIRST TITLE.

Relating to Matters of Succession, Right of Inheritances, and other Incidents occasioned by Death.

Mahomedan Law of Inheritance, &c.

WHEN either husband or wife dies, either leaving or not having children, the survivor shall in the first place separate and take away from the estate the dowry brought in marriage by him or her, the same not being in common.

2. A husband dying leaving a wife but no children or relations, the estate shall, after deducting the burial charges and other legacies, be divided in four shares, viz.:

One-fourth to the wife and the other three-fourths to the poor.

3. The husband dying and leaving a wife and one or more sons, then the estate is divided as follows, viz.:

One eighth part to the wife, and to the son or sons seven eighth parts.

4. The husband dying leaving a wife and a daughter:

The wife is entitled to one eighth part.

The daughter to the just half, and the poor to the remaining three eighth parts.

5. The husband dying leaving his wife and two daughters, then is due:

To the wife, one eighth part.

Two-thirds to both the daughters, and five twenty-fourth parts to the poor.

Mahomedan Law.

Mahomedan Law of Inheritance, &c.

6. When the husband dies leaving his wife and three daughters :

One eighth part goes to the wife, three-fourths to the three daughters, and one eighth part to the poor, and should there even be more daughters, they shall not inherit more than three fourth parts.

7. The husband dying leaving his wife and a son and one daughter :

The wife is entitled to one eighth part.

The son to seven-twelfths and the daughter to seven twenty-fourth parts.

8. Should there be more than one son and one daughter then the division is fixed as follows :

One eighth part to the wife, and

The son or sons twice as much as the daughters get.

9. The wife dying leaving alone her husband :

The husband is entitled to the half and the poor to the other half.

10. The wife dying leaving the husband and one son, the estate is divided as follows:

One fourth part to the husband and three fourth parts to the son ; should there be even more sons they will get no more than three fourth parts.

11. The wife dying leaving a husband and one daughter :

The husband is entitled to one fourth part of the estate.

The daughter to the just half and the poor to one fourth part.

12. The wife dying leaving a husband and two daughters :

The husband is entitled to one fourth part. The two daughters to two-thirds and the poor to one-twelfth.

13. The wife dying leaving a husband and three daughters, the estate must be divided into thirty-three parts, viz. :

Three sixteenth parts to the husband. Three fourth parts to the three daughters, and one sixteenth part to the poor. And in this manner the estate shall be divided even if there are more daughters.

14. The wife dying leaving a husband, one son, and one daughter, the estate shall be divided as follows, viz. :

To the husband one fourth part, to the son the just half, and to the daughter one fourth part.

15. The wife dying leaving her husband, one son, and two daughters, the following is allotted :

One fourth part to the husband, three eighth parts to the son, and three eighth parts to the daughters. This manner of dividing the estate shall take place even if there be more sons and daughters.

16. Should the husband or wife die leaving a father and mother :

The father gets two-thirds and the mother one-third.

Mahomedan Law.

Mahomedan Law of Inheritance, &c.

17. Anyone dying leaving a father and mother and one son :
The father is entitled to one sixth part, the mother to one-sixth, and the son to two-thirds.

18. Anybody dying leaving a father and mother and one son and one daughter :
The father is entitled to one-sixth, the mother to one-sixth, the son to four-ninths, and the daughter to two ninth parts.

19. A person dying leaving a father and mother and one daughter :
The father is entitled to one-third, the mother to one-sixth, and the daughter to the just half.

20. A person dying leaving a father and mother and two daughters :
The father gets one-sixth, the mother one-sixth, and the two daughters two-thirds, and although there be more daughters they shall have no more than two-thirds.

21. A man dying leaving a daughter and a son's daughter, or granddaughter, they are entitled to the following :
The daughter to one-half of the estate, the granddaughter to one-sixth, and the poor to one-third.

22. Should even the husband leave besides his aforesaid daughter two or more granddaughters, their share shall, however, not surpass what is stated here above.

23. A grandfather or grandmother and father or mother dying, and a granddaughter surviving them :
The one half of the estate shall go to the granddaughter, and the other half to the poor.

24. But in case two granddaughters have been left ; then,
Two-thirds go to the two granddaughters and one-third to the poor.

25 If a person has only a grandson he succeeds to the whole property.

26. A person dying leaving a grandson and a granddaughter, the estate is divided as follows :
To the grandson two-thirds and to the granddaughter one-third ; and although there be more grandsons and granddaughters the division shall take place in the same manner.

27. Should any person die leaving a daughter and a son's son, or grandson, one-third of the estate devolves to the daughter and two-thirds to the grandson.

28. But in case two daughters and one grandson are left each of them is entitled to an equal share of the estate.

29. But should there be a daughter, a grandson, and a granddaughter, the estate is then divided as follows :
The half to the daughter, one third to the grandson, and one-sixth to the granddaughter.

Mahomedan Law of Inheritance, &c.

30. Should, however, there be two daughters, one grandson, and one granddaughter, the estate shall be divided as follows:

To the two daughters two-thirds.

To the grandson two-ninths, and to the granddaughter one-ninth.

31. Should there be one daughter, two granddaughters, and one daughter's son, the estate is to be divided as follows:

To the daughter the half, to the two granddaughters one-fourth, and to the grandson one-fourth.

32. Should there be two daughters, two granddaughters, and one daughter's son or grandson:

The two daughters are to have two-thirds, the two granddaughters three-eighteenths, and the grandson one-eighteenth.

33. Should anybody die leaving one daughter and a sister, although he and the sister be of two mothers and the same father:

The half of the estate shall go to the daughter and the other half to the sister.

34. Should the deceased leave one daughter and two sisters:

The daughter must have the half and the two sisters the other half.

35. Should he have left two daughters and two sisters:

The two daughters shall have two-thirds and the two sisters one-third; the same division shall take place even if there be more daughters and sisters.

36. The husband dying leaving his wife with one daughter and a son's daughter, and leaving also a mother and one sister, the estate shall be divided as follows:

The wife shall have one-eighth.

The daughter the half.

The granddaughter one-sixth.

The mother one-sixth, and

The sister one twenty-fourth part.

37. But should, as in the above case, the husband survive his wife, and remain with the above persons, then the estate is divided as follows:

To the husband three-thirteenths.

To the daughter six-thirteenths.

To the granddaughters two-thirteenths, and to the mother two-thirteenths, and the brothers and sisters are, in this case, not to share in the inheritance.

38. The deceased leaving one brother and one step-brother from the side of another father or mother:

The full brother is entitled to five-sixths and the step-brother to one-sixth.

39. A person dying leaving two brothers or sisters of one mother and two fathers:

The two brothers or sisters are to have one-third and the poor two-thirds.

Mahomedan Law.

Mahomedan Law of Inheritance, &c.

40. The deceased leaving two half brothers or sisters of one mother and another father, and one full brother and one full sister, the estate is divided in the following manner :

One-third goes to the two half brothers or sisters, four-ninths to the full brother, and two-ninths to the full sister.

41. The wife dying leaving her husband and her grandfather, each of them is entitled to one half of the estate.

42. The husband dying leaving his wife and his grandfather, one-fourth of the estate devolves to the wife, and three-fourths to the grandfather.

43. Should the deceased leave a daughter and grandfather, each of them shall be entitled to an equal share of the estate.

44. Should the deceased leave two daughters and a grandfather, each of them shall be entitled to one-third of the estate.

45. Should there be a grandfather of the father or mother's side, and a son and a daughter :

The grandfather shall be entitled to one-sixth, the son to five-ninths, and the daughter to five-eighteenth parts.

46. Should the wife die leaving her husband, grandfather or grandmother, and a son :

The husband shall be entitled to one-fourth, the grandfather or grandmother to one-sixth, the son to seven twelfth parts.

47. Should there be two sons, then the husband is entitled to one-fourth.

The grandfather or grandmother to one-sixth, and the two sons to seven twelfth parts.

48. Should there be also a son and a daughter :

The husband is entitled to one-fourth, the son seven-eighteenths, the grandfather or grandmother to one-sixth, and the daughter to seven thirty-sixth parts.

49. Should the deceased leave a grandfather and grandmother of the father's side :

The grandfather is entitled to five-sixths and the grandmother to one-sixth part.

50. Should the deceased have left a grandfather and grandmother of the father's side, and a grandmother of the mother's side, then :

The grandfather of the father's side is entitled to two-thirds, the grandmother of the father's side to one-sixth, and the grandmother of the mother's side to one-sixth.

51. The wife dying, leaving her husband, father and a son, then:

The husband is to have one-fourth.

The father one-sixth, the son seven-twelfths.

52. The husband dying leaving his wife, mother, and a daughter :

The wife is to have one-eighth.

The mother one-sixth.

The daughter the half of the estate, and the poor five twenty-fourths.

Mahomedan Law of Inheritance, &c.

53. The husband dying leaving two wives and a son, then:

The two wives are to have one-eighth, and the son seven eighths, and should there be more wives the division shall take place in the same manner.

54. A grandfather or grandmother dying leaving a son's daughter or granddaughter:

The granddaughter is to have one half of the estate, and the poor the other half.

55. A person dying leaving two granddaughters of his son's side and a brother, each of them is entitled to one-third.

56. If the deceased has left a sister she is entitled to the half, and the poor to the other half.

57. The wife dying leaving her husband and two sisters:

The husband is entitled to three-sevenths, and the two sisters to four-sevenths.

58. If the wife has left two full sisters and an uncle of her father's side, then each of these persons shall be entitled to one-third part.

59. An emancipated female slave dying leaving her husband and one daughter, together with her late master or mistress, then:

The husband is entitled to one-fourth.

The daughter to one-half, and the master or mistress to the other one-fourth.

60. An emancipated male slave dying leaving his wife, daughter, and his master or mistress, then:

The wife is entitled to one-eighth.

The daughter to one-half, and the master or mistress to three-eighths.

61. An emancipated female slave dying leaving her husband and two daughters, together with her late master or mistress, then the property is divided as follows:

One-fourth to the husband, two-thirds to the two daughters, and one-twelfth to the late master or mistress.

62. If such an emancipated male slave dies:

The wife will be entitled to one-eighth.

The two daughters to two-thirds, and the master or mistress to five twenty-fourth parts.

63. Lastly, agreeable to the same rule, all descendants are entitled to their respective shares of inheritances according to the persons they represent in the same manner as—

A wife or her descendants, a full brother or his descendants, paternal uncle and full uncles and aunts and their children, and their descendants if there be no nearest kin, fathers' brothers' and mothers' sisters' children are entitled to the same shares as sons and daughters.

Mahomedan Law of Inheritance, &c.

SECOND TITLE.

Concerning Matrimonial Affairs.

64. A person wishing to marry, application must be made to the bride's father and mother for their consent.

65. Should the parents of such bride be dead, the man must make his intentions known to the relations of the bride, and endeavour to obtain their consent.

66. And after consent having been obtained it is the custom that the bride and bridegroom interchange some presents, which, however, are reciprocally restored if the marriage does not take place.

67. The parents or nearest relations of the bride shall then with the knowledge of the bride enter upon an agreement with the bridegroom concerning the marriage gift, called maskawien.

68. The matter being settled, the bridegroom is obliged to pay to the bride immediately what has been agreed upon.

69. But should the bridegroom not be able to pay such marriage gift immediately, it is, with special consent of the bride, however, carried to a separate account.

70. The bridegroom is obliged to inform the commandant, or the headman under whose orders he stands, of his intended marriage.

71. The commandant will then by means of the native commissioners apply to His Excellency the Governor for his consent.

72. The maskawien or magger being paid or remained owing, the priest or lebbe shall be informed thereof.

73. The priest and commandant are then obliged to record all such transactions, and to permit the marriage ceremonies to be performed.

74. Should, before the consummation of the marriage, it be discovered that the bridegroom laboured under any bad complaints, such as leprosy, insanity, or any other disorder, so that he is unable to perform the matrimonial duties, in which case a divorce is permitted.

75. The bride wishing to be divorced is obliged to inform the priest thereof, who after having deliberated with the commandants on both sides in the presence of the native commissioners accedes to the divorce, which they are obliged to record; should the parties, however, not wish to abide by the decision they shall be at liberty according to custom to lay their case before the competent judge.

76. The bride is in such case obliged to restore to the bridegroom the maskawien or magger.

77. But should the disorder be discovered after the cohabitation a divorce may take place, and the wife may in that case keep the maskawien or magger.

78. And although such complaint should be discovered by the bride either before or after the consummation of the marriage, the

husband is entitled to the maskawien or magger if discovered before the cohabitation, but the wife is entitled to the same if discovered after.

Mahomedan Law of Inheritance, &c.

79. Married persons, whether they can allege any reasons or not, being with mutual consent divorced, the husband is obliged to allow his wife the moettelaak or ready money proportioned to the marriage gift for the support of the house.

80. Should the husband and wife disagree, and live in continued dissensions with one another and wishing to be divorced.

81. In that case the priest and the commandants on both sides are obliged to inquire into the matter and endeavour if possible to reconcile parties.

82. But should the wife oppose a reconciliation, and the husband being inclined to a divorce, in that case they shall be separately kept by their own relations.

83. After which a meeting of the priests and the officers of the company shall be appointed.

84. And the matter in dispute shall be investigated for a second time, and endeavours made to bring the parties if possible to a reconciliation.

85. And if the parties cannot come to a reconciliation before the said assembly the matter in question must be brought before the sitting magistrate.

86. And if the wife should oppose the reconciliation she shall be held to restore to the husband twice the value of the maskawien.

87. The husband being desirous to divorce his wife, he shall be obliged to give her the tollok or letters of divorce, which is repeated a second time at the expiration of fourteen days, and at the end of one month she receives the third tollok, during which time the husband is obliged to maintain the wife and to furnish her with all necessaries.

88. Before the third tollok is issued a reconciliation between the parties may take place, and it is not necessary that they should disclose to anybody the causes of their differences.

89. But should the third tollok have been issued they must divorce, and it is in use, that should the husband be determined to divorce his wife without any further consideration, to issue three tolloks or letters of divorce at once, but in that case he is obliged to furnish the wife with a dwelling place for the space of three months, and she shall not be allowed to marry before she has had three times her menses.

90. The husband is held to give notice to the commandant on both sides of such divorce, which shall be recorded by them, and nobody else shall meddle themselves therewith.

91. No wife is obliged to receive from the husband any interest money for her maintenance, but such maintenance must according

Mahomedan Law of Inheritance, &c.

to the Mahomedan law be the product of some trade or manual work of the husband.

92. A married man decaying into poverty, so as to be unable to maintain his wife, such wife, if she should be possessed of any wealth which she is unwilling to share with her husband, may obtain a divorce, should she wish it, under the same provision as stated in the 76 Art.

93. The husband leaving his wife in order to repair to some place or other on business, he must without giving occasion to divorce provide for the maintenance of his wife in the presence of his relations.

94. A married woman disobeying her husband shall suffer herself to be reprimanded by him for the first time with kindness in order to bring her back to her duty.

95. Should the wife, however, fail in her due obedience for the second time, the husband is then permitted to inflict on her some gentle correction, but by no means to treat her in a rough manner so as to occasion any marks either in her face or other parts of her body, much less is he permitted to beat her on any dangerous place of the body so that blood appears.

96. A divorced wife being pregnant is entitled to be maintained till she be delivered by her husband, who is also obliged to pay the expense of her lying-in.

97. The wife in the above case is obliged to nourish her child during three days without being at liberty to ask or receive anything.

98. But the husband is after the expiration of that time obliged to fix a certain amount for the maintenance of the child if the wife requires it.

99. Should the wife be unwilling to keep the child longer than three days the husband is obliged to receive it.

100. A man is according to the law of Mahomet permitted to marry four wives, that is to say, only such men as are uncommonly addicted to the fair sex, who have abilities enough to acquit themselves of their duty, and who are possessed of wealth enough to maintain the same properly.

101. Such men are also permitted to keep under their protection besides their lawful wives so many concubines as they are able to maintain.

102. The husband and wife being divorced, and the third tollok having been issued, are not permitted to reconcile and live as husband and wife, unless the wife has been married to another husband and obtained from him also letters of divorce.

The shares allotted to the poor by several of the foregoing articles are not for the poor, but must go to the Asewatoekares, Aroegamoedeweigel, and people of the fathers' and mothers' side who are entitled to the same.

Mahomedan Law of Inheritance, &c.

Heirs who claim such inheritances make the same known to the headman of the Maurs, the arbitrators, the priests, who then at the entrance of the gate of the temple inquire and decide the case, and cause the shares to which each is entitled to be given to them; and as according to the Mahomedan custom the women may not go out, it is therefore the custom that their cases are inquired into and settled in an amicable manner, but not being contented therewith both such cases and the criminal ones are brought before the governor.

In this manner we the Marcair, arbitrators, priests, and inhabitants have, according to our knowledge, and having consulted with the learned high priests, have stated the foregoing articles as agreeable to the laws and customs for to be observed, and have confirmed the same with our signatures, at Colombo, the 1st of August 1806.

6.

REGULATION No. 18 OF 1806.

A Regulation for the Security of Property and the Establishment of a due Police in the district of Jaffnapatam and its dependencies.

Paragraphs 1–13 repealed.

14. The Thase Walema, or customs of the Malabar inhabitants of the province of Jaffna, as collected by order of Governor Simons, in 1706, shall be considered to be in full force.

15. All questions between Malabar inhabitants of the said province, or wherein a Malabar inhabitant is defendant, shall be decided according to the said customs.

16. All questions that relate to those rights and privileges which subsist in the said province between the higher castes, particularly the Vellales on the one hand, and the lower castes, particularly the Covias, Nalluas, and Palluas, on the other, shall be decided according to the said customs and the ancient usages of the province.

Paragraphs 17–22 repealed.

9th December 1806.

7.

REGULATION No. 3 OF 1811.

For the Protection of His Majesty's Pearl Banks of Ceylon.

WHEREAS there is reason to suspect that depredations are committed in the pearl banks of this island by boats and other vessels frequenting those places in the calm season without any necessity or lawful cause for being in that situation.

If any boat or other vessel shall hereafter, between the 10th of January and the end of April, or between the 1st of October and the end of November, in any year, be found within the limits of the pearl banks, as described in the schedule here-

unto annexed, anchoring or hovering and not proceeding to her proper destination, as wind and weather may permit, it shall be lawful for any person or persons holding a commission or warrant from His Excellency the Governor for the purposes of this Regulation to enter and seize such boat or other vessel and carry the same to some convenient port or place in this island for prosecution. And every such boat or other vessel is hereby declared liable to forfeiture by sentence of any court having revenue jurisdiction of sufficient amount, and shall be condemned accordingly, two-thirds thereof to the use of His Majesty and one-third to the persons seizing or prosecuting, unless such boat or other vessel shall have been forced into the situation aforesaid by accident or other necessary cause, the proof whereof to be on the party alleging such defence.

Penalty if vessels found within the limits of the pearl banks.

SCHEDULE REFERRED TO.

Vessels navigating the inner or along shore passage are not to hover or anchor in deeper than four fathoms water.

Vessels navigating the outer passage are not to hover or anchor within twelve fathoms of water.

9th March 1811.

8.

PROCLAMATION OF 11TH FEBRUARY 1815.

WHEREAS the armies of His Majesty the King of Great Britain have occupied and entered into complete possession of the Kandyan provinces, denominated the Four Korles, the Saffragam Korle, and the Three Korles, and the chiefs and people of those provinces have fully and freely surrendered the same and submitted themselves without reserve to His Majesty's Government:

The said provinces of the four Korles, the Saffragam Korle, and the Three Korles, with all their royal rights and dependencies, are become, and they are hereby declared to be, integral parts of the British possessions in the Island of Ceylon, and are henceforth received under the sovereignty and protection of His Majesty the King of Great Britain.

Paragraphs 3 and 4 have had their effect.

9.

OFFICIAL BULLETIN OF 2ND MARCH 1815.

THIS day a solemn conference was held in the audience hall of the Palace of Kandy, between His Excellency the Governor and Commander of the Forces on behalf of His Majesty and of His Royal Highness the Prince Regent on the one part, and the Adikars, Dessaves, and other principal chiefs of the Kandyan provinces on the other part, on behalf of the people, and in presence of the Mohottales, Coraals, Vidaans, and other subordinate headmen from the different provinces, and a great concourse of inhabitants.

A public instrument of treaty, prepared in conformity to conditions previously agreed on, for establishing His Majesty's

government in the Kandyan provinces, was produced and publicly read in English and Cingalese, and unanimously assented to.

The British flag was then for the first time hoisted and the establishment of the British dominion in the interior was announced by a royal salute from the cannon of the city.

All the troops present in this garrison were under arms on the occasion of this important event.

OFFICIAL DECLARATION OF THE SETTLEMENT OF THE KANDYAN PROVINCES.

Led by the invitation of the chiefs, and welcomed by the acclamations of the people, the forces of His Britannic Majesty have entered the Kandyan territory and penetrated to the capital —Divine Providence has blessed their efforts with uniform and complete success—the ruler of the interior provinces has fallen into their hands, and the government remains at the disposal of His Majesty's representative.

In this sacred charge it is his earnest prayer that the Power which has vouchsafed thus far to favour the undertaking may guide his councils to a happy issue, in the welfare and prosperity of the people, and the honour of the British empire.

Under circumstances far different from any which exist in the present cases it would be a duty, and a pleasing one, to favour the re-establishment of a fallen prince, if his dominion could be fixed on any principles of external relation compatible with the rights of the neighbouring government, or his internal rule in any reasonable degree reconciled to the safety of his subjects.

But the horrible transactions of the fatal year 1803, forced upon the recollection by many local circumstances and by details unknown before—the massacre of 150 sick soldiers lying helpless in the hospital of Kandy, left under the pledge of public faith, and the no less treacherous murder of the whole British garrison commanded by Major Davie, which had surrendered on a promise of safety, impress upon the Governor's mind an act of perfidy unparalleled in civilized warfare, and an awful lesson recorded in characters of blood against the momentary admission of future confidence—while the obstinate rejection of all friendly overtures, repeatedly made during the intermission of hostilities, has served to evince an implacable animosity destructive of the hope of a sincere reconciliation.

Of this animosity a daring instance was exhibited in the unprovoked and barbarous mutilation of ten innocent subjects of the British Government, by which seven of the number lost their lives—a measure of defiance calculated, and apparently intended, to put a final negative to every probability of friendly intercourse.

If, therefore, in the present reverse of his fortunes and condition, it may be presumed the king would be found more accessible to negotiation than in former times—what value could be set on a consent at variance with the known principles of his reign?—or what dependence placed on his observance of conditions which he has hitherto so perseveringly repelled?

Kandy (Convention).

Still less could the hope for a moment be entertained that any conditions of safety were capable of being established on behalf of the inhabitants, who had appealed to His Majesty's Government for protection, and yet more hopeless the attempt to obtain pardon or safeguard for the chiefs, who had deemed it a duty paramount to every other obligation to become the medium of that appeal.

How far their complaints have been groundless, and their opposition licentious, or on the contrary their grievances bitterly and intolerably real, may now be judged by facts of unquestionable authenticity.

The wanton destruction of human life comprises or implies the existence of general oppression,—in conjunction with that no other proofs of the exercise of tyranny require to be specified,—and one single instance, of no distant date, will be acknowledged to include everything which is barbarous and unprincipled in public rule, and to pourtray the last stage of individual depravity and wickedness, the obliteration of every trace of conscience, and the complete extinction of human feeling.

In the deplorable fate of the wife and children of Eheylapola Adikar these assertions are fully substantiated, in which was exhibited the savage scene of four infant children—the youngest torn from the mother's breast—cruelly butchered, and their heads bruised in a mortar by the hands of their parent, succeeded by the execution of the woman herself and three females more,—whose limbs being bound, and a heavy stone tied round the neck of each, they were thrown into a lake and drowned.

It is not, however, that under an absolute government unproved suspicion must usurp the place of fair trial, and the fiat of the ruler stand instead of the decision of justice; it is not that a rash, violent, or unjust decree, or a revolting mode of execution, is here brought to view, nor the innocent suffering under the groundless imputation of guilt; but a bold contempt of every principle of justice, setting at nought all known grounds of punishment, dispensing with the necessity of accusation, and choosing for its victims helpless females uncharged with any offence and infants incapable of a crime.

Contemplating these atrocities, the impossibility of establishing with such a man any civilized relations, either of peace or war, ceases to be a subject of regret, since His Majesty's arms, hitherto employed in the generous purpose of relieving the oppressed, would be tarnished and disgraced by being instrumental to the restoration of a dominion exercised in a perpetual outrage to everything which is sacred in the constitution or functions of a legitimate government.

On these grounds His Excellency the Governor has acceded to the wishes of the chiefs and people of the Kandyan provinces, and a convention has in consequence been held, the result of which the following public Act is destined to record and proclaim.

Kandy (Convention).

PROCLAMATION OF 2ND MARCH 1815.

AT a Convention held on the second day of March in the year of Christ 1815, and the Cingalese year 1736, at the Palace in the city of Kandy, between His Excellency Lieut.-General Robert Brownrigg, Governor and Commander-in-Chief in and over the British settlements and territories in the Island of Ceylon, acting in the name and on behalf of His Majesty George the Third, King, and His Royal Highness George Prince of Wales, Regent, of the United Kingdom of Great Britain and Ireland, on the one part, and the Adigars, Dessaves, and other principal chiefs of the Kandyan provinces on behalf of the inhabitants, and in presence of the Mohottales, Coraals, Vidaans, and other subordinate headmen from the several provinces, and of the people then and there assembled, on the other part, it is agreed and established as follows:

1. That the cruelties and oppressions of the Malabar ruler, in the arbitrary and unjust infliction of bodily tortures and the pains of death without trial, and sometimes without an accusation or the possibility of a crime, and in the general contempt and contravention of all civil rights, have become flagrant, enormous, and intolerable, the acts and maxims of his government being equally and entirely devoid of that justice which should secure the safety of his subjects, and of that good faith which might obtain a beneficial intercourse with the neighbouring settlements.

2. That the Rajah Sri Wikreme Rajah Sinha, by the habitual violation of the chief and most sacred duties of a Sovereign, has forfeited all claims to that title or the powers annexed to the same, and is declared fallen and deposed from the office of king; his family and relatives, whether in the ascending, descending, or collateral line, and whether by affinity or blood, are also for ever excluded from the throne, and all claim and title of the Malabar race to the dominion of the Kandyan provinces is abolished and extinguished.

3. That all male persons being or pretending to be relations of the late Rajah Sri Wikreme Rajah Sinha, either by affinity or blood, and whether in the ascending, descending, or collateral line, are hereby declared enemies to the government of the Kandyan provinces, and excluded and prohibited from entering those provinces on any pretence whatever, without a written permission for that purpose by the authority of the British Government, under the pains and penalties of martial law, which is hereby declared to be in force for that purpose; and all male persons of the Malabar caste now expelled from the said provinces are, under the same penalties, prohibited from returning, except with the permission before mentioned

4. The dominion of the Kandyan provinces is vested in the Sovereign of the British empire, and to be exercised through the governors or lieutenant-governors of Ceylon for the time being, and their accredited agents, saving to the adigars, dessaves, mohottales, coraals, vidaans, and all other chief and subordinate native headmen, lawfully appointed by authority of the British Govern-

ment, the rights, privileges, and powers of their respective offices, and to all classes of the people the safety of their persons and property, with their civil rights and immunities, according to the laws, institutions, and customs established and in force amongst them.

5. The religion of Boodho, professed by the chiefs and inhabitants of these provinces, is declared inviolable, and its rites, ministers, and places of worship are to be maintained and protected.

6. Every species of bodily torture, and all mutilation of limb, member, or organ, are prohibited and abolished.

Paragraph 7 repealed.

8. Subject to these conditions, the administration of civil and criminal justice and police over the Kandyan inhabitants of the said provinces is to be exercised according to established forms, and by the ordinary authorities, saving always the inherent right of Government to redress grievances and reform abuses in all instances whatever, particular or general, where such interposition shall become necessary.

9. Over all other persons, civil or military, residing in or resorting to these provinces, not being Kandyans, civil and criminal justice, together with police, shall, until the pleasure of His Majesty's Government in England may be otherwise declared, be administered in manner following:—

1. All persons, not being commissioned or non-commissioned military officers, soldiers, or followers of the army, usually held liable to military discipline, shall be subject to the magistracy of the accredited agent or agents of the British Government in all cases except charges of murder, which shall be tried by special commissions to be issued from time to time by the Governor for that purpose. Provided always, as to such charges of murder wherein any British subject may be defendant, who might be tried for the same by the laws of the United Kingdom of Great Britain and Ireland in force for the trial of offences committed by British subjects in foreign parts, no such British subject shall be tried on any charge of murder alleged to have been perpetrated in the Kandyan provinces otherwise than by virtue of such laws of the United Kingdom.
2. Commissioned or non-commissioned military officers, soldiers, or followers of the army, usually held amenable to military discipline, shall, in all civil and criminal cases wherein they may be defendants, be liable to the laws, regulations, and customs of war, reserving to the Governor and Commander-in-chief, in all cases falling under this ninth article, an unlimited right of review over every proceeding, civil or military, had by virtue thereof, and reserving also full power to make such particular provisions, conformably to the general spirit of the said article, as may be found necessary to carry its principle into full effect.

10. Provided always, that the operation of the several preceding clauses shall not be contravened by the provisions of any

temporary or partial proclamation published during the advance of the army; which provisions, in so far as incompatible with the said preceding articles, are hereby repealed.

11. The royal dues and revenues of the Kandyan provinces are to be managed and collected for His Majesty's use and the support of the provincial establishment, according to lawful custom, and under the direction and superintendence of the accredited agent or agents of the British Government.

12. His Excellency the Governor will adopt provisionally, and recommend to the confirmation of His Royal Highness the Prince Regent, in the name and on behalf of His Majesty, such dispositions in favour of the trade of these provinces as may facilitate the export of their products, and improve the returns, whether in money or in salt, cloths, or other commodities useful and desirable to the inhabitants of the Kandyan country.

10.

REGULATION No. 3 OF 1815.

WHEREAS it is the intention of his Excellency the Governor to direct that, in order to relieve the difficulty of obtaining small change, a quantity of the Dutch copper coin called challies, formerly current at the rate of sixteen to the fanam, should be forthwith put into circulation:

To obviate the want of small change Dutch challies to be issued.

And whereas, since the time in which the said coin called challies were in general circulation changes have taken place in the standard of colonial currency which have altered their relative value with respect to other coin; and it is therefore expedient, in order to prevent fraudulent exportation, to adjust the value of the said challies with reference to such changes:

Necessary to adjust the value of such challies with reference to other coin in circulation.

From and after the publication hereof, the said challies now to be issued, and all challies of Dutch coinage in circulation, shall pass current at the rate of twelve challies to the fanam, and that they shall be received and taken at that rate in all accounts and payments.

To pass current at the rate of 12 to one fanam.

15th of April 1815.

11.

PROCLAMATION OF 31ST MAY 1816.

A DESPATCH, of which the following is a copy, having been received from the Right Honourable Lord Bathurst, one of His Majesty's Principal Secretaries of State, respecting the convention concluded in Kandy on the 2nd of March 1815, the said despatch is published for general information.

No. 37.

SIR, Downing Street, 13th October 1815.

IN my despatch of the 30th of August I informed you that I had referred to the consideration of His Majesty's law servants

those articles of the convention for the settlement of the Kandyan country which had been the subject of discussion.

I have now the honour of transmitting to you a copy of their opinion, which is so full upon all the points submitted to their consideration as to render it unnecessary for me to furnish you with instructions, beyond that of adhering to the principles which they have laid down. And in order to prevent any uncertainty as to the liability of military persons in the Kandyan country to remain subject to martial law, I am to acquaint you that, although His Royal Highness the Prince Regent has generally approved the convention by which that territory has become annexed to His Majesty's dominions, His Royal Highness has declined adopting the pre-existing laws and courts of Kandy, as forms of the King's civil judicature, until more detailed information shall have been obtained as to the nature of the laws and the changes which it may be expedient to introduce in their administration.

I have the honour to be, &c.

BATHURST.

Governor Sir Robt. Brownrigg, K.C.B., &c.

In conformity to the principles laid down in the opinion of the law officers of His Majesty's Government in England (to which principles the Governor is instructed to adhere), it is hereby declared and notified as follows; to wit,

1. That the provision contained in the first section of the ninth or provisional articles of the convention, respecting commissions to be issued by the Governor for the trial of charges of murder in certain specified cases, will cease to be in force from henceforth.

2. That the ancient laws of Kandy are to be administered till His Majesty's pleasure shall be known as to their adoption *in toto* as to all persons within those provinces, or their partial adoption as to the natives, and the substitution of new laws and tribunals for the trial and punishment of His Majesty's European subjects, for offences committed therein.

3. That persons committing those offences cannot be tried by the Supreme Court, as at present established for Ceylon, till the Kandyan provinces are annexed to or made dependencies of that settlement or government—but that British subjects may be proceeded against in England under the 33rd Henry 8th, cap. 23rd.

4. Concerning the second section of the said ninth or provisional article, that the same being in substance conformable to the provisions of the Mutiny Act and Articles of War as applicable to the present state and condition of the Kandyan country will, until His Majesty shall otherwise provide, remain in force and extend to "all persons who are commissioned or in the pay of His Majesty "as officers, or who are listed or in pay as soldiers."

12.

PROCLAMATION OF 21ST NOVEMBER 1818.

1. THE chiefs and people of the Kandyan nation, no longer able to endure the cruelties and oppressions which the late king Sri Wikreme Rajah Singha tyrannically practised towards them, prayed the assistance of the British Government for their relief, and by a solemn act declared the late king deposed, and himself and all persons descending from or in any manner related to his family incapable of claiming or exercising royal authority within the Kandyan provinces, which were by the same solemn act ceded to the dominion of the British Sovereign.

2. The exercise of power by the representatives of His Britannic Majesty from the date of that convention, the 2nd March 1815, till the hour that insurrection broke out in the month of October 1817 was marked by the greatest mildness and forbearance towards all classes, the strictest attention to the protection and maintenance of the rites, ministers, and places of worship of the religion of Budhoo, and a general deference to the opinions of the chiefs, who were considered as the persons best able from their rank and knowledge to aid the Government in ensuring the happiness of the mass of its new subjects—in exacting either taxes or services for the State an extraordinary and unprecedented laxity was allowed to take place, in order that the country might with more ease recover from any evil effects sustained by the contrary practice of the late king: In assessing punishments for offences, even where a plot to subvert the Government was proved, the spirit which always characterizes the British rule was strongly to be contrasted with the ancient and frequent recurrence of capital executions, preceded by the most cruel and barbarous tortures.

3. Under this mild administration on the part of the British Government the country appeared to rest in peace; cultivation was increased, and Divine Providence blessed the exertions of the labourers and rewarded them by plenteous crops; yet all this time there were factious and intriguing spirits at work, seeking for an opportunity to subvert the Government, for no purpose but to assume to themselves absolute power over the lives and properties of the general mass of subjects, which by the equal justice of British authority were protected from their avarice or malicious cruelty.

4. These plotters against the State were found among the very persons who had been restored to honours and security by the sole intervention of British power, and the opportunity of raising disturbance was chosen when, relying on the merited gratitude of all orders of the Kandyan nation, the Government had diminished the number of troops; and the insurgent leaders, unconscious or forgetful of the extensive resources of the British empire, thought, in setting up the standard of rebellion, as easily to effect their purpose of expelling the English from the country, as the people had

been deluded to prostrate before the phantom whose pretensions they espoused merely to cover their own ambitious views of subjecting the nation to their arbitary will.

5. After more than a year of conflict, which has created misery and brought destruction on many, the efforts of the British Government, and the bravery of His Majesty's troops, have made manifest to the Kandyans the folly of resistance, and that in the Government alone resides the power of protecting them in the enjoyment of happiness; the flimsy veil which the rebel chiefs threw over their ambitious designs was torn aside by themselves, and the pageant whom the people were called to recognize as the descendant of the gods exposed as the offspring of a poor Cingalese empiric.

6. After such a display to the public of depraved artifice and injurious and unfeeling deception, the Government might reasonably hope that a sense of the misery brought on them by delusion should prevent the great body of the people from listening to any one who should attempt in future to seduce them into rebellion against its beneficent rule; but it is also incumbent on it, from a consideration of the circumstances which have passed, and the evil consequences which have ensued on the blind obedience which the people have thought due to their chiefs instead of to the Sovereign of the country, to reform, by its inherent right, such parts of the practice of administration as, by occasioning the subject to lose sight of the majesty of the Royal Government, made him feel wholly dependant on the power of the various chiefs, which to be legal could only be derived to them by delegation from the sovereign authority of the country.

Declaration of British supremacy.

7. His Excellency the Governor therefore now calls to the mind of every person and of every class within these settlements that the sovereign majesty of the King of Great Britain and Ireland, exercised by his representative the Governor of Ceylon and his agents in the Kandyan provinces, is alone the source from which all power emanates, and to which obedience is due; that no chief who is not vested with authority or rank from this sovereign source is entitled to obedience or respect; and that without powers derived from Government no one can exercise jurisdiction of any kind, or inflict the slightest punishment; and finally, that every Kandyan, be he of the highest or lowest class, is secured in his life, liberty, and property from encroachment of any kind or by any person, and is only subject to the laws, which will be administered according to the ancient and established usages of the country, and in such manner and by such authorities and persons as in the name and on behalf of His Majesty is herein-after declared.

Equal rights of every Kandyan subject.

Paragraphs 8 and 9 have had their effect.

Form of appointment to office.

10. No person shall be considered entitled to execute office, either of the higher or lower class of headmen, unless thereto appointed by a written instrument signed, in respect to superior chiefs by His Excellency the Governor, and for inferior headmen by the honourable the resident, or provisionally by any agent of Government

thereto duly authorized, excepting in certain villages or departments which will be allotted for personal services to the dessaves, in which the dessave shall as before have the sole privilege of making appointments.

Paragraphs 11–15 have had their effect.

Religion.

16. As well the priest as all the ceremonies and processions of the Budhoo religion shall receive the respect which in former times was shown them, at the same time it is in nowise to be understood that the protection of Government is to be denied to the peaceable exercise by all other persons of the religion which they respectively profess, or to the erection under due licence from His Excellency of places of worship in proper situations.

Erection of places of worship.

Taxes abolished, except a general tax on paddy lands.

17. All duties payable heretofore to the Gabbedawas Aramudale Awudege, and all other duties or taxes whatsoever, are abolished, save and except that now declared and enacted, being a tax on all paddy lands of a portion of the annual produce under the following modifications and exceptions and according to the following rates.

General rate of tax.

18. The general assessment of tax on the entire paddy lands of the Kandyan provinces is fixed at one tenth of the annual produce, to be delivered by the proprietor or cultivator at such convenient storehouse in every province or subdivision of a province as shall be with due regard to the interest of the subject appointed by or under the instructions of the revenue agent.

In certain districts tax reduced to one fourteenth.

19. To mark the just sense which His Excellency has of the loyalty and good conduct of the chiefs and people of Oodanoora, the four korles, the three korles, and the following korles of Saffragam, to wit: Kooroowitti korle, Nawadoon korle, Colonna korle, Kukula korle, Attakalan korle, the Uduwak Gampaha of Kadewatte korle, the Medde korle except the villages Udagamme, Gonilande, Kolutotte, Goletotte Mollemore, Piengiria, and Mulgamma, and the following korles of the seven korles, viz., Tirigandahaye excepting the village Hewapolla. Katoopittiye and Torrewatere, Oodapola korle, Kattugampaha korle Oodookaha, Kattugampola korle, Medapattoo Petigal korle, Yagama korle, Rakawah Pattoo korle, Ankamme korle, Yatekaha korle, and of the villages Pubilia, Kongahawelle, and Nikawelle lying in the Oodoegodde korle of Matelle; the Governor declares that the rate of taxation in those provinces or korles shall only be one fourteenth part of the annual produce.

Tax on lands forfeited and restored.

20. But, on the contrary, that it may be known that persons who are leaders in revolt or disobedience shall meet punishment, all lands which may have been declared forfeited by the misconduct of the proprietors shall, if by the mercy of Government restored to the former owners, pay a tax of one fifth of the annual produce.

Temple lands exempted from taxation.

Reservation of gratuitous service from certain inhabitants of temple villages.

21. The Governor, desirous of showing the adherence of Government to its stipulation in favour of the religion of the people, exempts all lands which now are the property of temples from all taxation whatever; but as certain inhabitants of those villages are liable to perform fixed gratuitous services also to the Crown, this obligation is to continue unaffected.

Lands belonging to certain loyal chiefs exempted from tax.

22. All lands also now belonging to the following chiefs whose loyalty and adherence to the lawful Government merits favour, viz.,

Mollegodde Maha Nileme,
Mollegodde Nileme,
Ratwatte Nileme,
Kadoogamoone Nileme,
Dehigamme Nileme,
Mulligamme Nileme, lately Dessave of Welassee,
Eknillegodde Nileme,
Mahawalatene Nileme,
Doloswalle Nileme,
Eheyleyagodde Nileme,
Katugaha the elder,
Katugaha the younger,
Damboolane Nileme,
Godeagedere Nileme,
Gonegodde Nileme, formerly Adikaram of Bintenne,

shall be free of duty during their lives, and that their heirs shall enjoy the same free of duty, excepting with regard to such as paid pingo duty, which shall now and hereafter pay one tenth to the Government of the annual produce, unless when exempted under the next clause.

Lands of chiefs holding office exempted.

23. All lands belonging to chiefs holding offices either of the superior or inferior class, and of inferior headmen, shall during the time they are in office be free of duty.

Paragraphs 24 and 25 have had their effect.

All presents prohibited.

Provisions to British officers, troops, or other servants of Government travelling, to be furnished for payment.

26. All presents to the Governor or other British authorities are strictly prohibited. In travelling every officer, civil or military, chiefs, detachment of troops, or other servants of Government, on notice being given of their intended march or movement, are to be supplied with the provisions of the country in reasonable quantity and on payment being made for the same at the current price.

Paragraph 27 repealed.

Remuneration for service of superior chiefs.

28. The services of the adigars, dessaves, and other superior chiefs to Government shall be compensated by fixed monthly salaries in addition to the exemption of their lands from taxation.

Remuneration to inferior chiefs.

29. The services of the inferior chiefs shall be compensated as above by exemption from taxation, and that they also receive one twentieth part of the revenue paddy which they shall collect from the people under them, to be allotted in such portion as the Board of Commissioners shall under the authority of Government regulate.

Paragraphs 30–55 repealed and have had their effect.

Reservation of powers of making further provisions.

56. In all matters not provided for by this Proclamation or other Proclamations heretofore promulgated by the authority of the British Government, His Excellency reserves to himself and

his successors the power of reforming abuses and making such provision as is necessary, beneficial, or desirable; he also reserves full power to alter the present provisions as may appear hereafter necessary and expedient, and he requires in His Majesty's name all officers, civil and military, all adigars, dessaves, and other chiefs, and all other His Majesty's subjects to be obedient, aiding and assisting in the execution of these or other his orders, as they shall answer the contrary at their peril.

General obedience enjoined.

13.

PROCLAMATION OF 5TH AUGUST 1819.

WHEREAS we are informed that notwithstanding our orders to the contrary, notified to the chiefs assembled in Kandy in the month of May 1816, the injurious practice of entering forcibly on the possession of lands to which a person pretends to have a legal claim, and carrying off therefrom the crop thereof, and also the equally illegal practice of taking possession of the cattle, buffaloes, or other moveable property of a person by whom another thinks himself aggrieved, are still too prevalent in the Kandyan provinces, to the disturbance of the public peace, and in contempt of the laws of our Lord the King: Now it is hereby declared and ordered that any person or persons who shall on pretence of having a claim to any land whatever, or to any crop or produce of the same, or on any other pretence, take or attempt to take possession of such land, or the crop or produce thereof, while in the occupation of another, without the authority of a competent magistrate, British or Kandyan, or who shall take possession of any buffaloes, cattle, or other moveable property belonging to another, to avenge himself for any injury he or they may consider done to him or themselves, or in liquidation of any demand he or they may consider due to them, without legal authority as aforesaid, such person or persons shall be and are liable to punishment by fine and imprisonment at hard labour, besides making recompense in damages to the person on whose property the violence is committed.

Penalty on forcible possession of land or removal of property.

14.

PROCLAMATION OF 18TH SEPTEMBER 1819.

WHEREAS by our Proclamation bearing date the 21st day of November 1818 we did declare that all lands which then were the property of temples should be exempted from all taxation whatever, save and except that such of the inhabitants of those villages as were liable to perform fixed gratuitous services also to the Crown should still be liable thereto: And whereas it is necessary for the security of His Majesty's revenue that the extent of the lands herein above referred to, as the same stood at the date of the said Proclamation, should be correctly ascertained and

Preamble.

registered, and that all subsequent donations or bequests to the temples of every description should only be made as was heretofore customary by and with the previous consent and licence of the sovereign authority in these provinces.

Temple lands to be registered.

The persons having the charge of the revenues of every temple, whether Wihare, Dewale, or under any other denomination, and whether such persons be the priest, dewe-nileme, basnaike-nileme, kapurale, or by what other description they may be called, shall, and they are hereby required, to deliver in to the revenue commissioner, the agent of Government in the several provinces and districts, or according as the lands are situated in reference to the schedule hereto annexed, a list of all lands of all descriptions which did belong to the said temples, under their respective charge, at the date of the said Proclamation, with the extent thereof, and the mode whereby the same was acquired, within twelve months from this date; whereupon the said lands shall be registered by the revenue commissioner or agent of Government, if he is satisfied that such lands are the property of the said temple, as such temple property, and entitled to the exemption from taxation in and by the said Proclamation granted; and a certificate of such enregistration shall be granted by such revenue commissioner or agent of Government, the production of which shall alone be considered sufficient proof that such land is exempted from taxation.

Provided always, that if the revenue commissioner or agent of Government is not satisfied that any land was the property of such temple by which it is claimed at the date of the said Proclamation, he shall refer the question to the consideration of the Board of Commissioners, who shall direct a proper course of inquiry into the validity of the claim, and report the same to us for our decision how the said land is to be considered.

It has not been, nor shall be hereafter lawful, to any inhabitant of these provinces, to make either a donation or a bequest of any land whatsoever to or for the use of any temple, whether Wihare, Dewale, or otherwise called, without having first signified to us, through the honourable the Resident, or through any resident agent of Government, his or her desire to make such bequest or donation, and having received a licence in writing to give or bequeath the same: And any land given or bequeathed contrary to this order shall not be considered as the property of a temple, but shall be given to the nearest heir of the person who has disobeyed the law by attempting to give and bequeath such land, provided he sues for the same before the judicial commissioner or agent of Government within twelve months from this date, or from the date of such gift or bequest, or from the time the possession has been taken for any temple; or else the land shall become forfeited to the Crown.

15.

PROCLAMATION OF 7TH SEPTEMBER 1820.

WHEREAS good and permanent roads have been and are now making in the Kandyan provinces for public convenience, and it is highly necessary the same should be preserved from any damage or encroachment:

Preamble.

All persons having paddy land on either side of a road shall, in cultivating the same, leave a space of not less than four feet between the road and the cultivated land; and that it shall not be lawful for any person to lay across the road pipes or other machinery for conveying water, or to fence across or over any part of the road, or otherwise encroach thereon, on pain of fine and imprisonment at hard labour, at the discretion of any agent of Government before whom he may be convicted, in addition to being obliged at his own cost and labour to repair all damage.

Four feet from the road to remain uncultivated.

No pipes to be laid across the road.

Penalty.

It being the intention of Government by all means in its power to encourage agriculture, orders have been given, wherever the conveyance of water is required from one side of the road to the other, to leave sufficient drains or channels for the same, the situations of which it is the duty of the different headmen to point out to the agents of Government or other officer superintending the working parties, and that where any such are found to be wanting the headman or the proprietor of the land adjacent is at full liberty and is invited to make the same known to the agent of Government in the district, who will take measures for affording the accommodation required if he considers the application reasonable; but no person is, of his own authority, to presume to cut across or otherwise damage the road on pain of punishment as above directed.

Drains will be made for agricultural purposes.

16.

PROCLAMATION OF 14TH JULY 1821.

HAVING taken into our consideration the expediency of settling the rights of purchasers of land in the Kandyan provinces on a footing which shall give them an immediate and permanent interest in their property, and induce them to improve the same, which the practice that has obtained in some of the said provinces of allowing the seller to repurchase the land at any time in his life is evidently calculated to prevent, do therefore proclaim and enact, that from and after the publication of these presents all sales of land made in writing according to the provisions of our Proclamation of the twenty-eighth day of October one thousand eight hundred and twenty in the Kandyan provinces shall be final and conclusive, and neither the seller nor his or her heirs shall have any peculiar right to repurchase the same, unless an express stipulation reserving such privilege shall be inserted in the deed of sale.

Sales of land to be final unless otherwise stipulated.

Such reservation when made in the deed of sale shall not be valid for any longer period than three years from the date of the said deed; and that the person who wished to exercise this right of repurchase shall pay to the person to whom he or she sold

Expenses of purchaser to be paid.

the land not only the original consideration but also all expenses incurred for increasing the value of the property, the amount of which will, in case of any dispute, be ascertained by appraisement on application to and under the sanction of the court in whose jurisdiction the land lies.

Redemption of land sold prior to this date.

And in respect to sales of land of a date prior to these presents, we do hereby order that no privilege of purchase shall in any part of these provinces be considered to attach to the seller unless he or she shall record his or her claim to the same in the court of the nearest agent of Government within six months from this date, and such privilege shall then only be competent to such seller within the term of three years from this date, and upon the conditions in the preceding clause contained.

No right of repurchase vests in the seller's heirs.

And no right of repurchase shall be considered to vest in the heirs of the seller, but the privilege is confined to him or herself personally.

17.

PROCLAMATION OF 21ST MAY 1822.

Preamble.

HAVING received information that doubts have been entertained as to the construction of the Proclamation of the eighteenth day of September one thousand eight hundred and nineteen, commanding the enregistration of lands which were on the twenty-first day of November one thousand eight hundred and eighteen the property of temples in the Kandyan provinces; and that by some persons it has been imagined that although the registration should not have been effected within the period of twelve months by the said Proclamation prescribed, yet at a future period the said lands might be enregistered, and on such enregistration become exempt from taxes as temple property, and that therefore several persons having the superintendence and charge of lands rightly belonging to several temples in the Kandyan provinces, have erroneously omitted to have the same registered: Do hereby proclaim and declare that we will permit applications to be made by any person having the superintendence or charge of Wihares, Dewales, or other temples in the Kandyan provinces to the agent of Government to whom the registry of temple lands of each division of the Kandyan provinces was entrusted by the said Proclamation of the eighteenth day of September one thousand eight hundred and nineteen, for permission to register any lands alleged to have belonged to the temple of which such person had the superintendence or charge on the twenty-first day of November one thousand eight hundred and eighteen, and which may have been hitherto omitted to be enregistered, provided such application be given in, in writing, on or before the first day of September next, and do contain a specification of the land, and the mode in which the temple acquired it, and the reason why the same was not before enregistered: And on such applications being received the agent shall examine into the validity of the title to the land, and of the reason alleged for the application not having been before made, and shall report thereon, through the Board of Commissioners,

Application to register temple lands will be received, if given in before 1st September 1822.

to us for our decision if the land shall be allowed to be enregistered.

And we do further declare, that no land shall be exempted from duty as temple property which shall not either have been registered under the Proclamation of the eighteenth day of September one thousand eight hundred and nineteen, or be allowed to be registered under the provisions of this Proclamation.

No land will be exempted from taxation as temple land not registered.

18.

REGULATION No. 26 OF 1822.

For obliging the Possessors of Wells to raise the Walls to a sufficient height to secure persons from danger of accidentally falling in.

1. WHEREAS it has been represented to Government that the wells in different parts of this island are so insufficiently protected that the lives of His Majesty's subjects are not only endangered but many lives have been lost by persons accidentally falling into such wells:

Preamble.

2. All proprietors or occupiers of land within the maritime districts of this island in which there may be any well or wells, shall, on or before the thirtieth day of June next ensuing, unless the said well or wells be already so secured, have the walls of the same substantially raised to the height of two and a half feet above the ground; and any such proprietor or occupier who shall neglect to comply with this regulation shall be, on conviction before any justice of the peace having local jurisdiction, sentenced to pay a fine of five rix dollars per month for each and every well in the land belonging to or occupied by him or her that may not be secured in manner required by this regulation; the said fine to be levied by sale of his or her property; and in defect of the property being sufficient to answer the penalty, such person shall be imprisoned for a term not exceeding fourteen days for every five rix dollars of fine, or three months in the whole.

All wells to have the wall raised 2½ feet.

Penalty on neglect.

3. The collector of each district shall take measures for having all and every well or wells not situated in lands belonging to individuals, but open to the general use of the inhabitants of any part of the district, secured in manner herein-before provided in respect to other wells; and such collector is for that purpose authorized to assess and levy, by distress of property if necessary, a proportional rate on the several persons enjoying the benefit of any such well. That the constable or police vidahns shall on or before the thirty-first day of January next report in writing to the collector what well or wells not situate in lands belonging to individuals exist within their respective jurisdictions, and the state thereof. And any constable or police vidahn who shall fail herein shall, on conviction before such collector as a justice of the peace, be liable to fine and imprisonment.

Public wells, how to be raised.

23rd December 1822.

19.

REGULATION No. 15 OF 1823.

For making a general provision in respect to property found.

Preamble.

1. WHEREAS it is necessary to make the provision enacted in respect to property found, by several of the regulations for the police of the different parts of this island, one of general regulation throughout the maritime districts :

Persons finding property to bring it to the constable or police vidahn, who is to report the same to the nearest sitting magistrate.

Magistrate to publish the circumstance.

If claimant appear.

If no claimant.

2. Any person throughout the maritime districts of this island who may find any money or goods, of whatsoever description the same may be, do and shall bring the same forthwith to the constable or the police vidahn of the division or village in which the same may be found, which said constable or police vidahn shall forthwith report the circumstance to the nearest sitting magistrate, who shall cause public notice to be given of the same : And the finder shall, if no fraud appear to have been by him committed in the matter, receive from the person who may substantiate, within six months, a right to the property so found, one-tenth of the value thereof ; and if no claimant shall appear or prove his right to the property within the period of six months, then the magistrate shall cause the same to be sold, if the same be not money, and shall pay one-half of the proceeds, or of the money, to the finder, and the remainder into the public treasury for the use of His Majesty.

Punishment for breach of this Regulation.

3. Any person who shall be convicted of a breach of this Regulation shall be subject to punishment by fine or imprisonment, either with or without being employed at hard labour, at the discretion and according to the powers of the court or magistrate before whom such conviction may take place.

25th October 1823.

20.

REGULATION No. 18 OF 1823.

For laying down General Rules to produce an uniformity of Practice in the Courts of this Island in the Allowance of Interest, and for determining the rate at which such interest shall be allowed, in the absence of any specific agreement.

Preamble.

1. WHEREAS it is expedient to enact some settled rules for the purpose of establishing an uniformity of practice in the several courts of justice in this island relative to the allowance of interest on debts which may be the subject of suits in such courts, and for fixing the rate at which interest shall be allowed where no particular rate has been agreed upon between the parties :

Interest to be allowed in cases where there is an agreement,

2. From and after the date of this Regulation, in all cases where there shall appear to have been an express promise or agreement to pay interest, or where from the custom of merchants, or from

the usual course of dealing between the parties it is to be inferred, that it was intended interest should be paid, then and in all such cases interest shall be allowed. or where an agreement may be inferred.

3. In all cases of bonds, obligations, promissory notes, bills of exchange, or other written securities, contracting for the payment of money on a certain day, interest shall in all such cases be allowed in default of payment from the date of such certain day. Interest on security to pay money.

4. In all debts, of what nature or kind whatsoever, if payment shall be delayed after a demand in writing for the same, interest shall in all such cases be allowed from the date of such demand in writing; and if no such demand in writing shall be proved to have been made, then and in that case interest shall be allowed from the commencement of the suit. Interest on debts after demand in writing.

5. In all cases where interest shall be allowed, if there is no agreement between the parties specifying any particular rate thereof, then and in all such cases the allowance of interest shall be made at the rate of nine per cent. per annum. Interest in the absence of agreement.

31st October 1823.

21.

REGULATION No. 14 OF 1824.

For preventing the Wetting of Coffee the Growth of this Island, with the intent of increasing its apparent weight or quantity.

1. WHEREAS a fraudulent practice prevails in this island of wetting coffee grown therein previously to selling the same to merchants, which practice has been found highly injurious, not only to the individual interests of the exporting merchant, but to the general prosperity of the island, by debasing the quality, and injuring the character of its exportable produce. Preamble.

2. If any person or persons, from and after the first day of January next, shall wet, or cause to be wetted, any coffee within this island, with the intent and for the purpose of increasing the apparent weight or quantity thereof, every such person shall, on conviction before any provincial judge or sitting magistrate, be liable to pay a fine at the rate of ten rix dollars for every parrah of coffee so wetted, one moiety of the said fine to be paid to His Majesty, and the other moiety to the person or persons informing against the said offender or offenders; and which fine shall be made and levied of the lands, goods, chattels, and effects of the offender or offenders, by warrant under the hand of such judge or magistrate, and in default of sufficient property whereof to levy the said fine, the person or persons so convicted shall be imprisoned and employed at hard labour for a period not exceeding six months, unless the said fine be sooner paid. Penalty on person wetting coffee.

3. It shall be lawful for any provincial judge or sitting magistrate before whom any information shall be laid by virtue of this Evidence of wetting.

Regulation to summon to the trial of the case, either for his own assistance and satisfaction, or on the application of the defendant, any number of persons not exceeding nine, nor less than five, whom the said judge or magistrate may consider competent to decide whether the coffee in question has been wetted or not; which summons all persons are hereby required and directed to obey; and such persons, not being excepted to either by the informer or the defendant for a cause which the said judge or magistrate shall consider just and reasonable ground for objection, shall be duly sworn well and truly to declare according to the best of their knowledge and belief, and according to the evidence which shall be adduced before them, whether the coffee in question has been wetted by the defendant or defendants; of which fact the opinion of the persons so sworn, or the opinion of the majority of them, shall be conclusive.

23rd September 1824.

22.

REGULATION No. 8 OF 1825.

For declaring the legal and established Currency of the Island of Ceylon to be the Silver and Copper current Coin of Great Britain, and also the Ceylon silver and paper rix dollar, and the copper subdivisions thereof, already current therein.

Preamble.

1. WHEREAS it is His Majesty's most gracious command that an uniform currency shall be established in the whole of His Majesty's foreign possessions, founded upon and having reference to the currency of the United Kingdom of Great Britain and Ireland; and that all accounts within this island should be kept and settled in British currency, to wit, in pounds, shillings, pence, and farthings: And whereas His Majesty has also been pleased to direct that the silver rix dollar of this island now current therein, being of the coinage of the Royal Mint of the year 1821, shall pass current and be received in the island as one shilling and sixpence of British silver money, and also the treasury notes of this island expressed in rix dollars at the same rate; and that British silver coin, whereof sixty-six shillings go to one pound troy of standard silver, should be received and pass as the lawful coin of this island, and British copper coin also pass as the lawful copper coin of this island, save that no one shall be compelled to receive more than one shilling, or twelve pence, of the said copper coin at one payment.

Accounts to be kept in pounds, shillings, pence, and farthings.

2. From and after the first day of July now current, all accounts of this Government shall be kept, entered, and adjusted in the currency of the United Kingdom of Great Britain and Ireland, to wit, in pounds, shillings, pence, and farthings.

Currency.

3. British silver coin, consisting of crowns, half-crowns, shillings, and sixpences, whereof sixty-six shillings go to the pound troy of standard silver, consisting of eleven ounces and two pennyweights pure silver and eighteen pennyweights of alloy, shall be a legal and full tender in every matter of account or debt throughout this island from and after the publication of this Regulation in the several districts thereof.

British silver coin a legal tender.

4. From and after the first day of July now current the silver rix dollars current in this island, being of the coinage of His Majesty's mint in England of the year 1821, and the treasury notes of this Government expressed in rix dollars, shall be received and taken at the relative value to British silver currency of one shilling and sixpence for each rix dollar.

Rix dollars of 1821 and rix dollar notes to be reckoned at one shilling and sixpence.

5. The copper coin of Great Britain, consisting of pence, halfpence, and farthings, shall be current throughout this island; and the copper coin now current in this island shall also continue current therein, at the following relative rates:

British copper coin to be current. Also present copper coin.

The copper fanam at a penny and a halfpenny,
Half a fanam at three farthings,
A pice at three-eighths of a penny,
Half a pice at three-sixteenths of a penny,
A Dutch challie at one-eighth of a penny:

Provided always, that no person shall be required to receive more than one shilling, or twelve pence, or eight fanams, in copper coin at one time.

No person required to take more copper than twelve pence.

6. Until new tables of rates of customs, taxes, duties, fees, fines, or penalties shall be established for the collection of the public revenue, the said customs, taxes, duties, fees, fines, and penalties heretofore by law established shall continue to be levied, assessed, and collected in such manner, and in such number of rix dollars, fanams, and pice, as by the laws now in force the same are authorized to be levied, assessed, and collected, but that in bringing the same to the credit of the public, the same be stated in British currency at the rate of one shilling and sixpence the rix dollar; and that from and after the publication of this Regulation all receipts by public departments to persons paying in money for public purposes be granted and expressed either solely in British currency, or, if need be, and until further order only, in such currency and in the present island currency, valuing as afore mentioned the rix dollar at one shilling and sixpence of British currency.

Till new tables of rates be established, customs, &c. to be collected in rix dollars, but brought to account in British currency.

Public receipts to be granted in British currency.

7. From and after the publication of this Regulation all judgments and process of courts of justice, in cases relating to the recovery of money, or of the value of any lands or goods required to be estimated in money, shall, unless in very special cases, pass and be expressed in British currency; and that all pleadings in such courts wherein money shall require to be expressed shall state the same in British currency; reference being had if necessary to the relative value of such British currency to any other coins or currency wherein the transaction which is the subject of the suit may have taken place, at such rate of exchange between such other coin or currency and British currency as the parties may

Judgments and process of courts to be expressed in British currency.

All pleadings to express money in British currency.

The rix dollar to be valued at one shilling and sixpence.

please to put on the same, of the justice of which rate the court will decide, as of the other matters in the case, save and except as to the Ceylon rix dollar, which is fixed and shall be estimated in all cases at one shilling and sixpence.

4th July 1825.

23.

PROCLAMATION OF 14TH JANUARY 1826.

WE having received information that in many instances fictitious transfers of land have been made to persons in official employ for the purpose of evading the payment of taxes and duties upon such land, which practice is highly injurious to His Majesty's revenue, and being desirous to establish some fixed rules by the due observance of which the interests of the revenue may be protected, and the exemption of land really and truly belonging to chiefs and headmen from the payment of taxes and duties may be secured to such chiefs and headmen during their continuance in office, do hereby proclaim, command, and enact as follows:

1. From and after the first day of May next no exemption from the payment of any tax or duty shall be allowed to any chief or headman in official employ in respect to any land belonging to any such chief or headman unless the same shall have been possessed by him for the full term of twelve months.

2. Every chief or headman in official employ claiming exemption from the payment of any tax or duty in respect to any land belonging to him, which shall have been possessed by him for the full term of twelve months, shall forthwith and from time to time as often as occasion may require apply to the Cutcherry of the province in which such land is situate, to have the same registered, and if he shall satisfy the revenue commissioner, if the land be in the provinces under the immediate control of the Board of Commissioners, or, if the land be in any other province, the agent of Government intrusted with the collection of the revenue in such province, by the production of the title deed if the land has been acquired by transfer, or by such other evidence as may be required if the land has been acquired by inheritance, that such land is in truth and in fact absolutely and irrevocably the property of such chief or headman, and that he has possessed the same for the full term of twelve months, then, and in every such case, every such revenue commissioner and agent of Government is hereby authorized and required thereupon to register the same, and to grant to such chief or headman a certificate of such registration, which certificate shall exempt such chief or headman during his official employ from the payment of all taxes and duties upon all lands so registered.

3. And from and after the first day of May next no exemption from the payment of any tax or duty in respect to any land whatsoever shall be allowed to any chief or headman who shall not have obtained a certificate according to the provisions of this pro-

clamation that such land has been duly registered in the Cutcherry of the province in which the same is situate.

4. And from and after the first day of May next if any person or persons shall be concerned in any fictitious transfer of any land to any chief or headman for the purpose of evading the payment of any tax or duty upon such land, such persons shall be guilty of a misdemeanor, and upon conviction thereof before any competent jurisdiction the land belonging to such persons so fictitiously transferred shall be confiscated for the use of His Majesty, and the chief or headman so convicted of being concerned in taking such land upon such fictitious transfer shall be liable to a fine not exceeding four times the amount of tax or duty due upon such land, and to imprisonment till such fine be paid.

24.

REGULATION No. 5 OF 1829.

To remove all doubts as to whether the Statute 10 Geo. 4. cap. 7. passed "for the Relief of His Majesty's Roman Catholic subjects," extends to and is in force in Ceylon.

Preamble.

WHEREAS an Act of the Imperial Parliament of the United Kingdom, intituled "An Act for the relief of His Majesty's Roman "Catholic subjects," was passed in the present year of His Majesty's reign: And whereas it is expedient to prevent any doubts on the question whether the said Act be in force in this island:

10 Geo. 4. cap. 7. to be in force in Ceylon.

The said Act and all and every the provisions thereof shall from the time of the promulgation thereof in these settlements be and be deemed to be in force and operation in the Island of Ceylon and its dependencies in as full and ample a manner, to all intents and purposes, as if the said island and its dependencies had been expressly mentioned in the said Act and included in the provisions thereof.

Oaths of Catholics holding office.

Every person professing the Roman Catholic religion who shall after the date hereof be appointed to any office or place of trust or profit in this island or its dependencies under His Majesty, His heirs or successors, shall as soon as possible after his arrival in this island, or otherwise before he presumes to exercise or enjoy, or in any manner to act in such office or place, take and subscribe the oath appointed and set forth in the said Act of the Imperial Parliament and the usual oath of office, either before the Governor in Council or in the Supreme Court of Judicature, or before any person duly authorized by His Excellency the Governor to administer such oath.

23rd November 1829.

25.

ORDER IN COUNCIL OF 12TH APRIL 1832.

At the COURT of SAINT JAMES'S, the 12th day of April 1832.

Present:

THE KING'S MOST EXCELLENT MAJESTY.

Lord Chancellor.	Viscount Palmerston.
Lord President.	Viscount Melbourne.
Lord Privy Seal.	Viscount Goderich.
Duke of Richmond.	Viscount Althorp.
Lord Steward.	Lord Holland.
Marquis of Winchester.	Mr. Grant.
Earl of Carlisle.	Sir James Graham, Bt.
Lord John Russell.	Mr. Stanley.

WHEREAS by the ancient laws and customs of the Island of Ceylon, the native and Indian inhabitants thereof are bound to render various services to the Government in respect of the tenure of their land, or in respect of their caste or otherwise:

And whereas by the second clause of a Proclamation dated at Colombo the 3rd day of September in the year 1801, the Governor of the said island recited, so far as regarded the maritime provinces of the said island, that he had seen by experience the absolute necessity of abolishing tenure by service and substituting a less oppressive and irregular mode of contribution to the service of the State:

And whereas by the fourth clause of the said Proclamation the said Governor of the said island proclaimed, so far as regarded the maritime provinces of the said island, that persons of whatever caste and condition should from that day continue subject to serve only on the especial order of the said Governor and his successors, governors or lieutenant-governors of the said island, only according to their respective castes, and that on the receipt of adequate pay for such service:

And whereas by the 21st clause of a Proclamation dated at Kandy the 21st day of November 1818 it was proclaimed amongst other things by the Governor of the said island, so far as regarded the Kandyan provinces of the said island, that the obligation of certain inhabitants of temple villages to perform fixed gratuitous services to the Crown was to continue unaffected:

And whereas by the 30th clause of the said last-mentioned Proclamation it was declared amongst other things by the Governor of the said island, so far as regarded the Kandyan provinces of the said island, that all persons should be liable to service for Government on the requisition of the Board of Commissioners and agents of Government according to their former customs and families or tenures of their lands, on payment being made for their labour, it being well understood that the Board of Commissioners under the Governor's authority might commute

such description of service as under their present circumstances was not usefully applicable to the public good to such other as might be beneficial; and provided further that the holding of lands duty free should be considered the payment for the service of the Katepurule and Atepattoo Departments, and persons allotted to the Dessaves service, and also for the service to Government of certain persons of the temple villages, and in part for those which cut cinnamon, and also that the duty of clearing and making roads and putting up and repairing bridges should be considered a general gratuitous service falling on the districts through which the roads pass or wherein the bridges lie:

And whereas His late Majesty King George the Fourth, by a commission under the great seal of this United Kingdom, was pleased to authorize and appoint certain commissioners therein named to repair to the said island, there to examine into all the laws, regulations, and usages of the settlements in the said island, and into every other matter or thing in any way connected with the administration of the civil government thereof: And whereas the said commissioners have in pursuance of the said commission reported to His Majesty that various representations had been made to them by the aforesaid native and Indian inhabitants of the said island, complaining of the evils which they have suffered from the enforcement of the services aforesaid, and requesting relief: And whereas the native and Indian inhabitants as well of the said maritime provinces as of the said Kandyan provinces of the said island will be able to follow their own occupations with more profit to themselves, and to render their services to His Majesty more effectually and beneficially, if such services are rendered freely and for such remuneration as may be agreed upon between His Majesty's officers in the said island and the said inhabitants, instead of being enforced by punishment without remuneration, or with such remuneration only as may be fixed by His Majesty's officers in the said island without the consent of the said inhabitants: And whereas it hath been made to appear to His Majesty that the Governor of the said island and the Council of Government thereof are unanimously of opinion that the said system of forced labour ought not to be continued:

Now therefore His Majesty is pleased, with the advice of His Privy Council, to order, and it is hereby ordered, that the said fourth clause of the said Proclamation dated at Colombo the 3rd day of September in the year 1801, and also so much of the said 21st and 30th clauses of the said Proclamation dated at Kandy the 21st day of November 1818, as is herein-before recited, shall be repealed, abrogated, and annulled, and the same are hereby repealed, abrogated, and annulled accordingly.

And for the removal of all doubts respecting the future exemption of the said native and Indian inhabitants of the said island from the obligation to render the said services to His Majesty, it is hereby ordered and declared, that none of His Majesty's native or Indian subjects within the said island shall be or are liable to render any service to His Majesty in respect to the tenure of their land, or in respect of their caste, or otherwise, to

which His Majesty's subjects of European birth or descent are not liable, any law, custom, or regulation to the contrary notwithstanding:

Provided always, that nothing herein contained shall be construed to affect the services which the tenants of any lands in any royal villages in the said Kandyan provinces of the said island are bound to render to His Majesty so long as they continue tenants of such lands upon such tenures, or the services which the tenants of any lands in any temple villages in the said Kandyan provinces of the said island may be bound to render to any temple so long as they continue tenants of such lands, or the service which the tenants of lands in any other villages in the said Kandyan provinces of the said island may be bound to render to the proprietors of such villages so long as they continue tenants of such lands.

And whereas by the fourth clause of a Regulation of Government, dated at Colombo the 21st day of September 1829, entitled "A Regulation of Government No. 4 of 1829," it was enacted, so far as regarded the maritime provinces of the said island, by the Governor of the said island in Council, that, with a view to the encouragement of agricultural speculations, all labourers, of whatever nation, caste, or description, who should be *bonâ fide* employed in any plantation of coffee, cotton, sugar, indigo, opium, or silk, or in the manufacture of the produce thereof, should be exempt from being called out in the public service during the period for which they should be so *bonâ fide* employed, excepting during actual war and for the purpose of repelling invasion or during internal commotion:

And whereas the exemption from public service which is conferred by the said fourth clause of the said last-mentioned Regulation of Government upon persons employed in such manner as is therein mentioned, is, by the provisions of this present order secured to such persons in common with all other His Majesty's subjects within the said island: Now, therefore, His Majesty is pleased with the advice of His Privy Council, to order the said fourth clause of the said last-mentioned Regulation of Government shall be repealed, abrogated, and annulled, and the same is hereby repealed, abrogated, and annulled:

And whereas by the third clause of a Regulation of Government, dated the 25th day of November 1825, entitled "Regulation of Government No. 10 of 1825," it was enacted by the Governor of the said island in Council, that if it should appear to any such collector as was specified in the second clause of the said last-mentioned Regulation on or after the 1st day of July then next ensuing, that any person liable to a certain tax imposed by the first clause of the said last-mentioned Regulation upon every male inhabitant of the districts of Jaffnapatam, Manar, and Trincomalie, and the Wanny provinces, which said districts and provinces are part of the said maritime provinces of the said island, had not complied with the exigencies of that Regulation, such person should be liable to be called on by such collector to work gratuitously at any public work which might be selected for a period not exceeding fourteen days, and that if any person should abscond from or evade

being employed in such work he should be then liable to be committed by such collector to imprisonment and to be employed at hard labour for the said period of fourteen days, or such portion thereof as might remain after reckoning the days he might have voluntarily worked under the previous order of such collector :

And whereas it is expedient to repeal the said third clause of the said last-mentioned Regulation of Government : Now, therefore, His Majesty is pleased, with the advice of His Privy Council, to order, and it is hereby ordered, that the said third clause of the said last-mentioned Regulation of Government shall be repealed, abrogated, and annulled, and the same is hereby repealed, abrogated, and annulled accordingly ; and it is hereby ordered, that when any portion of the said tax so by the said first clause of the said last-mentioned Regulation imposed shall be in arrear and unpaid, the same shall be recovered from the person liable to pay the same in the same manner and by the same process as is used for the recovery of other debts due to His Majesty in the said maritime provinces of the said island.

And whereas by the first clause of a Regulation of Government, bearing date at Colombo the 1st day of May in the year 1827, entitled "A Regulation No. 3 of 1827," in the preamble of which said last-mentioned Regulation of Government it was recited that evil-disposed persons had been from time to time employed to seduce and entice away Chalias from the settlements of His Majesty in the said island, all such Chalias being bound by their caste to serve His Majesty in the cultivation and preparation of cinnamon, it was amongst other things enacted by the Governor of the said island in Council, so far as regarded the said maritime provinces of the said island, that any person who should contract with, entice, persuade, or endeavour to seduce or encourage any Chalia to go away from the said island beyond seas, every person so offending should, upon conviction thereof before the Honourable the Supreme Court of Judicature, be sentenced by such court to transportation, or to fine or imprisonment at hard labour, according to the nature and circumstances of the offence and the condition of the offender, as the said Supreme Court should in its discretion think fit:

And whereas it is expedient to repeal so much of the said first clause of the said last-mentioned Regulation of Government as is herein-before recited: Now, therefore, His Majesty is pleased, with the advice of his Privy Council, to order, and it is hereby ordered, that so much of the said first clause of the said last-mentioned Regulation of Government as is herein-before recited shall be repealed, abrogated, and annulled, and the same is hereby repealed, abrogated, and annulled.

And the Right Honourable Viscount Goderich, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) WM. L. BATHURST.

26.

ORDINANCE No. 1 OF 1834.

For abolishing certain Oaths and Affirmations taken and made in the Customs and other Revenue Offices in Ceylon, and to substitute Declarations in lieu thereof.

Preamble.

WHEREAS by and under the laws relating to the customs and other revenue offices in Ceylon numerous oaths, solemn affirmations, and affidavits have been required or have hitherto been accustomed to be taken and made by traders and other persons before the collectors of customs and the Government agents or their assistants respectively being justices of the peace; and it is expedient to provide for the diminution of the number of such oaths and to substitute other regulations in lieu thereof:

Oaths, &c. hitherto taken in collection of the revenue customs no longer to be required, but in lieu thereof a declaration in writing to be made.

1. In all cases in which any oath, solemn affirmation, or affidavit shall be required or has hitherto been accustomed to be taken and made under the laws relating to the customs and the collection of revenue in Ceylon, by any person, on the doing of any act, matter, or thing, for verifying any book, account, entry, or return, or for any other purpose whatsoever, such oath, solemn affirmation, or affidavit shall no longer be taken, made, or required, but in lieu thereof the person who would have been required to take or make such oath, solemn affirmation, or affidavit shall, in the presence of the collector of customs or Government agent, or their assistants respectively, make and subscribe a declaration setting forth the matters contained in and to the same effect as the oath, solemn affirmation, or affidavit which has been hitherto required as aforesaid, and shall declare to the truth thereof; and if any such declaration shall be untrue in any particular the person making the same shall, over and above every other penalty to which such person may become subject, be liable to a penalty not exceeding one hundred pounds.

If any such declaration be false, person making the same liable to a penalty not exceeding 100*l*.

Penalty to be levied as the penalties on offences against revenue laws.

2. The penalty by this Ordinance imposed shall be sued for and recovered in the same manner and under the same provisions as any penalty imposed by any regulation relating to offences against the revenue laws in Ceylon.

Exceptions.

3. Provided always, that nothing in this Ordinance contained shall be construed to abolish or in any manner to interfere with the oath of allegiance or office required to be taken by any person appointed to any office of profit or trust, nor to any oath or affidavit required to be taken for the verification of public accounts under any instructions of the Lords Commissioners of His Majesty's Treasury, nor to any oath or affidavit required to be taken under any Act or Acts of Parliament of Great Britain and Ireland extending to Ceylon; but all such oaths shall continue to be required, and to be made, taken, and administered as if this Ordinance had not been made.

1st March 1834.

27.

ORDINANCE No. 8 OF 1834.

To assimilate, amend, and consolidate the Laws now in force in different parts of this Island regulating the Prescription of Actions.

WHEREAS it is expedient to amend and consolidate the laws now in force in the different parts of this island regulating the prescription of actions, and to introduce one uniform rule of limitation for deciding the several periods within which actions at law must be respectively brought throughout the island and its dependencies : Preamble.

1. Repealing clause.

2. Proof of the undisturbed and uninterrupted possession by a defendant in any action, or by those under whom he claims, of lands or immoveable property, by a title adverse to or independent of that of the claimant or plaintiff in such action (that is to say, a possession unaccompanied by payment of rent or produce, or performance of service or duty, or by any other act by the possessor from which an acknowledgment of a right existing in another person would fairly and naturally be inferred,) for ten years previous to the bringing of such action shall entitle the defendant to a decree in his favour with costs ; and in like manner when any plaintiff shall bring his action, or any third party shall intervene in any action, for the purpose of being quieted in his possession of lands or other immoveable property, to prevent encroachment or usurpation thereof, or to recover damages for such encroachment or usurpation, or to establish his claim in any other manner to such land or other property, proof of such undisturbed and uninterrupted possession, as herein-before explained, by such plaintiff or intervenient, or by those under whom he claims, shall entitle such plaintiff or intervenient to a decree in his favour with costs ; provided always, that the said term of prescription of ten years shall only begin to run against parties claiming estates in remainder or reversion, from the time when the parties so claiming acquired a right of possession to the land in dispute. Term of prescription for lands or immoveable property.

3. No action, nor any claim by way of reconvention or set off, shall be maintainable upon any instrument of hypothecation, or mortgage, or bond, conditioned for the future payment of money, or the performance of any agreement or trust, or the payment of penalty, whether notarial or not, and whether under the seal of the obligor or not, unless such action shall be brought or such claim by way of reconvention or set off shall be set up within ten years from the date of such instrument or of the last payment of interest thereupon. And for bond, &c.

4. No action, nor any claim by way of reconvention or set off, shall be maintainable upon any bill of exchange, promissory note, And for bill of exchange, &c.

or other written security not falling within the description of instruments set forth in the foregoing clause, unless such action be brought or such claim be set up within six years from the time at which such bill, note, or security shall have become due, or when any payment of interest shall have been made thereupon.

And for unwritten promise, &c.

5. No action, nor any claim by way of reconvention or set off, for any moveable property, or upon any unwritten promise, contract, bargain, or agreement, relating to moveable property, or to recover money lent without bond, note, or other written security, shall be maintainable, unless such action be brought or such claim be set up within three years after the cause of action or claim shall have arisen.

And for shop bills, &c.

6. No action, nor any claim by way of reconvention or set off, for any goods sold and delivered, or for any shop bill or book debt, or for the wages of artisans, labourers, or servants, shall be maintainable unless the same be brought or set up within one year after the debt shall have become due.

Proviso.

7. But inasmuch as the terms of limitation herein-before prescribed by the third, fourth, fifth, and sixth clauses are founded on the presumption of payment arising from the time which the creditor has allowed to elapse without exacting payment, it is hereby provided and declared that in any case falling within the purview of any of the said clauses, in which the creditor, or party claiming as creditor, shall be enabled to prove to the satisfaction of the court any written promise, acknowledgment, or admission made, or any act done by the alleged debtor within the term hereby prescribed for bringing the action, from which promise, acknowledgment, admission, or act the court shall be convinced that the debt has not been paid or satisfied, it shall and may be lawful for such court to give judgment in favour of the creditor, as it might have done if the action had been brought, or the claim, by way of reconvention or set off, had been made within the time limited by this ordinance.

Proviso in case of death of creditor.

8. Provided also, that in case of the death of the creditor, if the term of three years or of one year, as limited by the fifth and sixth clauses of this Ordinance respectively, shall not have elapsed at the time of such death, his heir, executor, administrator, or assignee shall be allowed to commence an action on his behalf after the expiration of the said term, provided he do so within one year after the death of such creditor. But in case of the death of the debtor before the said term of three years or of one year shall have elapsed, no such action shall be maintainable against his estate unless brought within one year after the death of such debtor.

Or of debtor.

Actions against fiscals, when to be brought.

9. No action for any loss, injury, or damage shall be maintainable unless brought within two years after the cause of action shall have arisen, nor shall any action lie against any fiscal for any act or neglect of himself or his officers unless brought within nine months after the cause of action arising, nor unless such notice be

given and all other conditions be complied with as are prescribed by the laws now in force or hereafter to be passed for declaring the duties and responsibilities of fiscals.

10. Provided that, with respect to all the terms of prescription by this Ordinance respectively limited for actions, or for claims by way of reconvention or set off, if, at the time of the right of such action or such claim accruing, the plaintiff or defendant shall not be resident within this island or its dependencies, or if, by reason of the minority, or coverture, or insanity, whether of the plaintiff or of the defendant, either party be disabled from prosecuting such action or setting up such claim, the period of prescription of such action or claim shall begin to run in every such case from the time when such absence from the island or such disability shall have ceased. Provision in cases of disability.

11. When such absence or disability shall have ceased, and the term of prescription shall have commenced to run, no new absence or other disability shall be allowed to prevent such prescription from being completed. Cesser of absence, &c.

12. Provided, that nothing in this Ordinance shall in any way affect the rights of the Crown, or shall be taken to alter or annul any of the provisions of any law now in force in this island, or which may hereafter be passed for the prevention of frauds and perjuries. Rights of the Crown.

20th December 1834.

28.

ORDINANCE No. 2 OF 1835.

To provide for the Protection of cultivated and enclosed Lands, and of the public Roads and Canals, against the trespass and depredations of stray cattle, goats, sheep, and pigs.

WHEREAS for want of adequate means of prevention and of redress the proprietors of cultivated and enclosed lands in these settlements have for many years been exposed to considerable damage by trespass and depredations committed on their lands by stray cattle, goats, sheep, and pigs, and the public roads and canals have been in like manner materially injured: And whereas it is essential for the protection as well of public roads and canals as of the agricultural interests of these settlements that effectual means should be devised both for the prevention of such trespass and depredations, and for enabling proprietors of lands with greater ease and certainty to recover damages for the injuries thereby sustained: And whereas by the Regulation No. 9 of the year 1833 these objects were partially provided for as regards certain parts Preamble.

of the island, but it is desirable that one uniform system should be prescribed, applicable to and capable of being enforced in all parts of Ceylon:

1. Repealing clause.

Stray cattle, &c. to be seized.

2. It shall and may be lawful for any proprietor or tenant, or any other person by his direction, of any land, garden, plantation, or field under cultivation, and fenced in such manner as the local custom may require, or without any fence if by the established local custom no fence is required, and in respect to the Government preserved cinnamon plantations of Marandhan, Ekele, Kadirane, and Morotto, for any person thereto duly authorized to seize any cattle, goats, sheep, or pigs found straying therein, and to tie up and detain such cattle, goats, sheep, or pigs until the owner thereof shall have been ascertained, and the damages, if any, occasioned by such trespass assessed in manner herein-after mentioned; and the fair expense of the keep of each and every such cattle, goats, sheep, or pigs during their lawful detention as aforesaid, may be recovered as herein-after mentioned.

Mode of procedure on such seizure, when damage sustained.

3. The owner or person in charge of such stray cattle, goats, sheep, or pigs shall be liable to the proprietor or tenant of such land for the full amount of damages by him sustained in consequence of the trespass; and if the said trespass shall have been committed in the night time he shall be further liable to pay a fine to the King equal to the amount of the damages awarded; the damages to be assessed and the penalty to be levied in manner following; that is to say, notice of the seizure of such cattle, goats, sheep, or pigs shall forthwith be given to the nearest constable, police vidahn, or local headman, who, if he be not the principal resident headman of the village or district, shall without delay give information thereof to the principal headman of the village or district, if such principal headman be resident at the time within ten miles, and such headman shall, as soon as may be, repair to the spot, and with the assistance of three or more respectable persons of the neighbourhood, if the attendance of such persons can be procured (otherwise without their assistance), ascertain to whom the cattle, goats, sheep, or pigs belong, and the nature of the trespass committed, and assess the amount of damages thereby sustained, and forthwith furnish the land proprietor, or other person in his behalf, with a report of the particulars of such trespass, and the amount of such assessment, and the names of the persons by whom such assessment shall have been made, for production before the district court: And unless the parties shall agree in the amount so assessed, the report shall be produced before the district court, but shall not be received in evidence unless verified on the oath of such headman in open court; and the said district court, after summarily hearing the parties and the witnesses whom they may bring with them, or any others whose evidence the court may think fit to require, shall award such damages as shall be proved to have been sustained, together with

the charges for keep in the last preceding clause mentioned, and further a fine of equal amount in case the trespass shall have been committed in the night time, which damages and penalty shall be levied by distress, if not otherwise discharged.

When no damage.

4. In any case where trespass shall be proved to have been committed as herein-before mentioned, whether any damage shall be proved to have been sustained in consequence of such trespass or not, it shall be lawful for the district court in its discretion to award a fine not exceeding ten shillings for each head of cattle, goats, sheep, or pigs which shall be proved to have been trespassing, to be paid by the owner or person in charge thereof; and it shall be competent to the said court in its discretion to direct that a share not exceeding half of such fine be paid to the owner or occupier of the land, and the remainder to the King.

When cattle, &c. cannot be seized.

5. Where the proprietor of such cultivated land, or the tenant or occupant thereof, or other person on his or their behalf, is unable to secure such stray cattle, goats, sheep, or pigs, but can satisfactorily prove the trespass, and identify the cattle, goats, sheep, or pigs, or the owners or persons in charge thereof, such owners or persons in charge shall nevertheless be liable, notice being given of the trespass in the manner directed in the third clause of this Ordinance, to the like penalty and damages, and the course of proceeding in respect thereof shall be similar, as far as the circumstances admit, to that in the said third clause directed.

Notice of seizure required.

6. All right to the benefits of this Ordinance in respect to the charges and damages in the preceding clauses mentioned shall be forfeited unless the notice thereby required shall have been given within forty-eight hours from the time of seizure or trespass done, as therein respectively mentioned, to the constable, police vidahn, or local headman, if any shall be resident within ten miles, or if no headman be resident within that distance, then within a reasonable period after the seizure or damage done, and unless such land, field, garden, or plantation be protected by such a fence, if any, as the local custom may prescribe.

Cattle to be branded or marked, and description of marks to be furnished yearly.

7. And in order to facilitate the identifying of cattle, from and after the said first day of July next every person possessing cattle, not already branded or marked, and being eighteen months old or upwards, shall cause the same to be branded or marked, and shall furnish within three months from and after the said first day of July, and thereafter yearly and every year in the month of January, a correct description of the mark or marks with which his cattle are branded to the principal headman of the village or district; in default thereof he shall be liable to a penalty not exceeding three shillings for every omission to furnish such description or account, and a penalty not exceeding sixpence for every head of cattle not branded or marked; one moiety of such penalty or penalties, on conviction before the district court, to be paid to the informer, and the residue to the use of our Lord the King.

Punishment for wilfully driving cattle, &c. on land.

8. And in order to prevent false and unfounded complaints on the part of land proprietors and others, whenever it shall appear to the satisfaction of the district court before which the complaint is preferred that such cattle, goats, sheep, or pigs were wilfully driven or had entered upon the land by, or with the connivance of the proprietor, tenant, or occupant of such land, or by any other person, such proprietor, tenant, or occupant, or other person, shall be liable to such punishment by fine, imprisonment with hard labour, or whipping, as the district court shall award.

When cattle may be shot.

9. And whereas it may sometimes happen that cattle committing trespass cannot be seized or identified so that the owner thereof may be known, it shall be lawful for the district judge, or if the place where such trespass is committed shall be more than ten miles from the district court, then for the principal headman having local authority, and none other, to grant permission in writing for the shooting of any stray cattle, if it shall be made satisfactorily to appear to the district judge or headman that such cattle are in the habit of trespassing and cannot be seized or identified so that the owner thereof may be proceeded against, and thereupon such district judge or headman may at his discretion direct some fit person to proceed to the land, field, garden, or plantation as aforesaid, who shall first endeavour by every reasonable exertion to seize and identify such cattle then or afterwards found committing trespass, and if he, being duly assisted by the landowner or others on his behalf, shall find it impracticable to seize or identify such cattle, then, and not otherwise, he shall shoot or otherwise destroy or cause the same to be shot or otherwise destroyed in his presence: Provided that such order shall not be in force more than one month from the date thereof, and that in all cases where any such order is given by the principal headman as aforesaid he shall within forty-eight hours transmit a duplicate thereof to the district judge, in failure whereof he shall be liable to such damages or other punishment as the court may award; and when any district judge shall make such order as aforesaid he shall enter the same in his diary.

Pigs straying in cultivated fields, &c may be destroyed.

10. It shall and may at all times be lawful for any land proprietor or tenant, or other person by his direction, to destroy any pigs found straying within the limits of his cultivated field or enclosed land, garden, or plantation, and for any person duly authorized there to destroy any pigs found straying in the Government preserved cinnamon plantations aforesaid.

Paragraphs 11–14 repealed.

Unredeemed cattle, &c. to be sold.

15. All stray cattle, goats, sheep, or pigs seized in the act of trespass or straying within the meaning of any of the preceding clauses, and which shall not have been claimed and redeemed within fourteen days from the day of seizure, inclusive, shall be sold under the direction of the district judge; and the proceeds thereof shall be applied in the first instance to defray the expense of keeping them, then the damages awarded and penalty (if any),

and the balance (if any), unless claimed by the owner within six months, paid over to the Government agent for the use of Government.

21st December 1835.

29.

Ordinance No. 7 of 1835.

To enable Persons in the actual Possession of Land or immoveable Property to ascertain and bring to legal Determination the Claims of others thereto, and to bar the Claims of all Persons failing to prefer the same within a limited Period.

Preamble.

Whereas the cultivation of lands is an object of the greatest importance to the advancement of the interests and prosperity of these settlements, and persons have been induced to obtain grants of lands, as well from Government as from private individuals, for the purpose of bringing them to a proper state of cultivation ; but, after putting themselves to considerable expense, have been disturbed in their possession by claims made on the part of individuals possessing in general no just right or title whatever thereto, which they suffer to lie dormant for awhile, and then renew without taking proper legal proceedings to submit them to the test of judicial inquiry, and thereby the possession of land is rendered insecure and cultivation is discouraged ; it is expedient to provide a remedy by obliging claimants to appear within a reasonable period and establish their claims according to law, and for that purpose to repeal the Regulation respecting edictile citations now in force within the maritime provinces, and substitute more general provisions in lieu thereof which will operate beneficially in all parts of these settlements.

1. Repealing clause.

Application for citation to contain full description, &c.

2. It shall be lawful for any person in the possession of land, or other immoveable property whatsoever, either by himself or by his tenant, or by any other person on his behalf, to make application in writing to the court of the district in which the same is situate for a general citation, which application shall contain a full description of the property, together with a map or plan and survey thereof, showing the extent and boundaries, and shall contain an affirmation by the applicant, stating that he is in the exclusive and *bonâ fide* possession thereof, and stating the nature of his right, or the manner in which he acquired possession ; and every such application shall be also supported by the affidavit of two respectable persons, to the effect that the applicant is in the exclusive possession of the property in the application described ; and in all cases where any affirmation as aforesaid by any applicant shall be false, he or she shall be punishable by fine or imprisonment, at the discretion of the court, and the certificate thereupon obtained shall be null and void.

Citation to be issued by court.

3. Upon any application being made and supported by affidavit as aforesaid, the district court shall issue a citation requiring all persons having or pretending to have any right or title to the property in the application described to appear before the said court, and by due course of law establish their claims to the same, or be for ever barred therefrom, a translation of which citation and application, in the native language or languages of the district, shall at the expense of the applicant be made and certified to be correct by the acting interpreter of the court, who shall be thereupon allowed such reasonable charge for the same as the court shall approve; and the said court shall, at the applicant's expense, cause copies of the translations to be affixed to some conspicuous part of the court house and cutcherry of the district, another copy thereof to be posted up in the most conspicuous spot on the property, another copy thereof shall be lodged with the local headman for general information, and another copy thereof shall be inserted in three successive Government Gazettes, and the court shall likewise, on the applicant's defraying or depositing the necessary expense, issue an order to the fiscal to proclaim the citation, according to its tenor, by beat of tom tom, or in the most public manner throughout every village within five miles of the property in question, once in every six months during the period of eighteen months; and the fiscal shall duly and regularly certify such proclamation to the district court, by whom the certificates shall be preserved and filed with and form part of the proceedings had upon the application for citation.

Proceedings if claim be preferred.

4. If any claim be preferred to the property in the citation and application mentioned, the claimant shall state the nature of his claim, either orally or in writing as plaintiff in manner allowed by the rules of court on commencing a suit; and such statement being recorded shall be taken as a libel, to which the applicant for citation shall plead as defendant, and further proceedings shall thereupon be had as in an ordinary suit.

All claims not preferred within eighteen months barred.

Exceptions.

5. All the above requisites being duly observed, the claim, right, or title to the property in the citation and application mentioned of all persons failing to prefer the same within eighteen calendar months from the date of the citation shall be absolutely barred; save the claim, right, and title to such property of persons claiming in remainder or reversion, and of persons absent from the island, minors, and women under coverture, and persons under other legal disability, who shall be entitled to prosecute their respective rights within eighteen months from the time of their possession accruing, or such absence or disability ceasing, and not afterwards; and the district court shall, on all the above requisites being duly observed, grant a certificate under the hand of the district judge in the form hereunto annexed, which certificate shall be received as a good and valid title to the land or other immoveable property therein mentioned, saving as herein-before is excepted.

FORM OF CERTIFICATE.

In the district court of

Whereas *A.B.* of did on the day of 18 make application in writing to this court for a citation to be issued pursuant to the provisions of the Ordinance No. 7 of 1835, in which application the said *A.B.* did affirm that he was in the exclusive and bonâ fide possession of (*describe the property as in the application*), and which application was supported by the affidavit of *C.D.* and *E.F.*: And whereas a citation was thereupon issued by this court, bearing date the day of 18 , requiring all persons having or pretending to have any right or title to the said property to appear before this court, and establish their claims to the same by due course of law, or be for ever barred therefrom: which citation and the translation thereof have been duly affixed, published, and certified by the fiscal as required by the said Ordinance: And whereas the said *A.B.* hath apparently complied with all the requisites of the said Ordinance directed to be observed, and no person hath preferred any adverse claim to the said property: Be it therefore known to all, that the said *A.B.* hath a good and valid title to the property aforesaid, saving nevertheless the claim, right, and title of such persons as in and by the said Ordinance are excepted, but not further or otherwise; in testimony whereof this certificate is granted to the said *A.B.*

Dated this day of one thousand eight hundred and

G.H., District Judge.

29th December 1835.

30.

Ordinance No. 2 of 1836.

For establishing the Imperial Weights and Measures as the Standards of Length, Weight, and Capacity within these Settlements.

Whereas it is necessary for the convenience of the public, and particularly for the purpose of preventing insecurity and fraud in trade, that there should be one uniform standard of weights and measures established for the whole island: **Preamble.**

1. From and after the first day of January one thousand eight hundred and thirty-eight, within every part of these settlements, the imperial standard yard established by the statute of the British Legislature of the 5th Geo. 4. c. 74. shall be and is hereby declared to be the only standard measure of extension, from which all other measures of extension, whether lineal, superficial, or solid, shall be derived and computed; and that the imperial standard troy pound by **Imperial declared standard weights and measures.**

the said statute established shall be and the same is hereby declared to be the only standard measure of weight, from which all other weights shall be derived and computed, and that the said imperial standard troy pound shall contain 5,760 grains, and 7,000 such grains shall make one pound avoirdupois ; and that the imperial standard gallon by the said statute established shall be and is hereby declared to be the only standard measure of capacity, from which all other measures of capacity shall be derived and computed, and that the parts, or multiples, or proportions of the said standards shall be respectively computed according to the schedule to this Ordinance annexed.

Models to be kept at cutcherries for inspection.

2. And for the purpose of enabling every person to ascertain with certainty whether any weights and measures in use or intended for use do conform to the standard hereby established for every part of these settlements, the Government agents of the several provinces shall preserve with care at each and every cutcherry of their province a model of each of the aforesaid standards of length, weight, and capacity, to be furnished by Government for that purpose, and that every person shall be at liberty, on giving reasonable notice, to inspect the said standards, or any of them, and to compare any other weight or measure therewith.

Government agents to sell weights and measures.

3. In order to accommodate the public with standard weights and measures, the Government agents of the several provinces shall at each and every cutcherry of the province provide a sufficient number thereof for sale at rates to be notified by advertisement in the Government Gazette.

Contracts, &c. to be made according to standards.

4. All contracts, bargains, sales, and dealings which shall be made or had within any part of these settlements for any work to be done, or for any goods, wares, merchandise, or other thing to be sold, delivered, done, or agreed for by weight or measure, where no special agreement shall be made to the contrary, shall be deemed, taken, and construed to be made and had according to the standard weights and measures hereby established.

Penalty for false weights or measures.

5. Any person or persons selling by retail who shall use or attempt to use, or in whose shop, house, stall, standing place, or premises shall be found any weight or measure of length or capacity not being in conformity with the standards hereby established, or any false or unequal balance, shall upon conviction forfeit and pay for every such offence a sum not exceeding forty shillings, and in default of payment be imprisoned at hard labour for a term not exceeding six calendar months.

6. Repealing clause.

SCHEDULE OF IMPERIAL WEIGHTS AND MEASURES.

Lineal Measure.

Inches							
12	1 Foot.						
36	3	1 Yard.					
198	16½	5½	1 Pole or Perch.				
7,920	660	222	40	1 Furlong.			
63,360	5,280	1 760	320	8	1 Mile.		

Superficial Measure.

Inches						
144	1 Foot.					
1,296	9	1 Yard				
39,204	272¼	30¼	1 Pole.			
1,568,160	10,890	1,210	40	1 Rood.		
6,272,640	43,560	4,840	160	4	1 Acre.	

Troy Weight.

Grains				
24	1 Pennyweight.			
480	20	1 Ounce.		
5,760	240	12	1 Pound.	

Avoirdupois Weight.

Drams						
16	1 Ounce.					
256	16	1 Pound.*				
3,584	224	14	1 Stone.			
28,672	1,792	112	8	1 Hundredweight.		
573,440	35,840	2,240	160	20	1 Ton.	

* Containing 7,000 grains Troy.

MEASURES OF CAPACITY.

Dry Measure.

Pints						
2	1 Quart.					
8	4	1 Gallon.				
16	8	2	1 Peck.			
64	32	8	4	1 Bushel.		
512	256	64	32	8	1 Quarter.	

Liquid Measure.

Pints						
2	1 Quart.					
8	4	1 Gallon.				
504	252	63	1 Hogshead.			
1,008	504	126	2	1 Pipe.		
2,016	1,008	252	4	2	1 Tun.	

15th November 1836.

31.

Ordinance No. 3 of 1836.

For consolidating and amending the Laws for the Protection of His Majesty's Revenue derived from Salt.

Preamble.

Whereas it is expedient to consolidate and amend the laws now in force within these settlements for the protection of His Majesty's revenue derived from salt:

1. Repealing clause.

Collection and manufacture of salt.

2. It shall not be lawful for any person to collect or attempt to collect salt naturally formed, or to manufacture or attempt to manufacture salt by any process whatsoever within any part of these settlements, except on account of Government, or under the written licence of the Government agent or assistant Government agent for the province in which it shall be collected or manufactured, and that any person who shall be convicted of collecting or manufacturing, or attempting to collect or manufacture, salt as aforesaid, except as aforesaid, shall be subject to a fine not exceeding five pounds for each offence, and ten shillings in addition for each* bushel of salt so collected or manufactured, if the quantity shall exceed one bushel, and in default of payment to imprisonment with or without hard labour, at the discretion of the court, for any term not exceeding twelve months; and the salt so collected or manufactured, together with any apparatus used in or for the manufacture thereof, shall be confiscated, and the occupier of any premises upon which salt shall, with his privity or consent, be illegally collected or manufactured, shall, on conviction, be subject to a fine not exceeding ten pounds for each offence, and in default of payment to imprisonment, with or without hard labour, at the discretion of the court, for any term not exceeding five months.

* 1 Parrah $10\frac{3}{8}$ Seers.

Possession of salt in districts enumerated.

3. It shall not be lawful for any person (unless duly authorized by licence as herein-after mentioned) to possess salt in any greater quantity than two† pecks in manner herein-after expressed, within the under-mentioned districts, according to the limits of their respective judicial jurisdictions, viz., districts of Colombo No. 1 North and No. 1 South, No. 4, otherwise called Caltura, Amblangodde, Galle, and Matura; and than three‡ quarts in the districts of Colombo No. 2, otherwise called Negombo, Putlam, and Chilaw, Manar, Jaffna, Walligammo, Waddimoratchie, Tenmoratchie and Patchelapalle, the Islands, the Wanny, Trincomalee, Batticaloa, Hambantotte, and Tangalle.

† $17\frac{3}{16}$ Seers.

‡ $3\frac{7}{32}$ Seers.

Restriction as to quality.

4. And whereas there is a very great difference in the appearance and disparity in the weight of the different descriptions of salt, so that manufactured salt may be readily distinguished from salt of natural formation, the salt obtained by one process of manufacture from that by another, and the salt of natural formation collected at one leway from that collected at another: It is further enacted, that the possession of any salt whatever in the districts

enumerated in the third clause of this Ordinance, unless duly accounted for; of a description different from that issued from the Government stores for sale within the limits of the village, district, or province in which such salt shall be found, shall be unlawful.

Government agents to grant licences for possession.

5. Within the districts enumerated in the third clause of this Ordinance, the Government agents or assistant Government agents in their respective districts may grant licences for the possession of salt, if purchased of Government, as well to such persons as may be authorized by Government to retail salt within the districts aforesaid as to any other persons at their discretion, and in any quantity; provided that in the licence granted to such other persons be defined the purposes for which the salt is required, the quantity allowed to be possessed, from what Government store it has been or is to be purchased, and for what period (which shall not in any case exceed twelve months from the date thereof) it is to be in force.

And retailers.

6. Within the districts enumerated in the third clause of this Ordinance, persons authorized by Government to retail salt may grant licences in their respective districts for the possession of salt purchased of themselves, in quantities not exceeding three* pecks, and for a period not exceeding fourteen days.

* 1 Parrah 1¾ Seers.

Illegal possession of salt, earth, &c.

7. Every person possessing salt, whether within the districts above enumerated or elsewhere, contrary to the provisions of this enactment, or possessing earth or sand or water impregnated with salt, for the purpose of making salt, and the occupier of any house or premises in which shall be found any salt or any earth or sand or water impregnated with salt, which he is unable satisfactorily to account for, shall be liable to a fine not exceeding twenty shillings for every bushel† thereof, and proportionably for less than a bushel, and in default of payment to imprisonment, with or without hard labour, at the discretion of the court, for any term not exceeding twelve months; and the salt shall be seized and confiscated, as well as all instruments and utensils, or earth, sand, or water so impregnated with salt, used for the purpose of manufacturing salt illegally; and the persons in whose possession any such utensils, instruments, or earth, sand, or water, so impregnated with salt, shall be found, shall be liable to a penalty not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, at the discretion of the court, for a term not exceeding five months.

† 1 Parrah 10⅜ Seers.

Disposal of salt on expiration of licence.

8. Any salt purchased from Government which shall remain at the expiration of his licence in the possession of any licensed person, shall, if tendered to the Government agent of the province or his assistant, and if such salt is found on examination to be unadulterated, be received into the Government stores and be paid for at the rate at which it was originally sold by Government, and any salt so remaining which shall be found adulterated shall be seized and confiscated.

Concealment of salt.

9. Every person who shall bury, conceal, or assist in or be privy to the burying or concealing, in any place or quantity whatever, any salt illegally collected, manufactured, or possessed, or which shall

not be satisfactorily accounted for, shall be liable to the same fine as in the seventh clause is imposed for the illegal possession of salt.

Possession in non-enumerated districts.

10. Any Government agent or assistant Government agent, district judge, or local headman in any of the districts not enumerated in the third clause of this Ordinance may call upon any person possessing salt exceeding four* bushels within the non-enumerated districts, to account for the same; and if he shall fail to show that such salt was lawfully removed, he shall be liable to the penalties attached to the illicit possession of salt.

* 5 Parrahs 17½ Seers.

Persons found in the vicinity of a salt pan.

11. That if any person shall be found in the immediate vicinity of any salt pan or salt leway at a suspicious hour or under suspicious circumstances, it shall be lawful for any person to bring him before the district court, which shall thereupon investigate the matter of suspicion alleged against him, and if he shall fail to give a satisfactory account of himself, and there shall, in the opinion of the court, be reasonable ground to believe that he was in the immediate vicinity of such salt pan or leway with intent to collect or remove salt there formed, collected, or deposited, the court shall require him to give such security for his good conduct as it shall deem fit, and in default of such security shall sentence him to be imprisoned for a period not exceeding six months, with or without hard labour, at the discretion of the court.

Removal of salt.

12. The removal of salt in any quantity exceeding three† quarts in the districts in which the possession of three quarts is herein-before allowed, and two‡ pecks in any other district, at one time, from or to any place within these settlements, and the export and import thereof by sea, except under the permit of some Government agent or assistant Government agent, or of a licensed retailer, to the extent of three pecks, shall be unlawful; and such permit shall specify the date thereof, the quantity of salt to be removed, the name of the person removing, the place from and to which, the conveyance by which, and the period within which it is to be removed, which period shall in no case of a permit granted by a Government agent or assistant Government agent exceed three calendar months, or of a permit of a licensed retailer exceed fourteen days, from the date of the permit, and any salt removed contrary to the provisions of this Ordinance shall be confiscated, and the person by whom such salt is removed, in what part soever of these settlements, shall be liable to the penalties enacted against the illegal possession of salt.

† $3\frac{7}{32}$ Seers.

‡ $17\frac{3}{16}$ Seers.

Shipment.

13. Any salt landed from or shipped on board any ship, dhoney, boat, or vessel of whatever description, without the license of the Government agent or assistant Government agent of the province wherein such shipment or landing takes place, unless on account of Government, shall be confiscated, and the commander or principal person on board or belonging to such vessel shall be subject to a fine at the rate of three shillings for every bushel§ of salt so confiscated, and in default of payment be imprisoned with or without hard labour, at the discretion of the court, for any term not exceeding twelve months;

§ 1 Parrah 10⅔ Seers.

and all and every other person or persons knowingly assisting in shipping or landing any such salt shall be liable to a fine not exceeding ten pounds, and in default of payment to imprisonment with or without hard labour, at the discretion of the court, for any term not exceeding six months; provided always, that it shall be lawful, by permit of any collector or assistant collector of customs to ship salt specified in such permit on board any vessel for the use of the crew, the same having been originally purchased from the Government salt store or licensed salt retailer according to the general provisions of this Ordinance.

Sale.

14. The sale of salt within the districts enumerated in the third clause of this Ordinance, in any quantity whatsoever, except on account or by license of the Government agent or assistant Government agent of the province within which such salt is sold, is hereby declared to be unlawful, and any person convicted of selling salt, either by wholesale or retail, contrary to the provisions of this Ordinance, shall be subject to a fine not exceeding five pounds for each offence, or in default of payment to imprisonment with or without hard labour, at the discretion of the court, for any term not exceeding twelve months, and the purchaser shall likewise be liable to a fine not exceeding twenty shillings for each offence, or in default of payment to imprisonment with or without hard labour, at the discretion of the court, for any term not exceeding two months.

Retailer to affix notice to place of sale.

15. And to prevent as far as may be the possibility of persons contravening this enactment through ignorance, every licensed retailer shall affix in front of his or her shop, stall, or place of retail sale, a board having painted or legibly written thereon the name of the licensed retailer, and the words "licensed to sell salt," in the English, Cingalese, and Malabar languages, and any salt retailer who shall sell salt without having such board affixed, or in any other place than that in which he is licensed to sell, shall be liable for every such offence to a fine not exceeding the rate of twenty shillings for every bushel* of salt so sold.

* 1 Parrah 10⅝ Seers.

Search or seizure.

16. In all cases requiring any search or seizure to be made without the delay which would be incurred by an application to the district court, the several constables or police vidhans or other proper officers may, on information laid before them showing just ground of suspicion, and showing further that the object of the search would probably be defeated by the delay of applying to the district court for a warrant, make such search or seizure without warrant; provided always, that such search or seizure so made without warrant shall be made or commenced between sunrise and sunset only, and that they are hereby required to exercise such authority; but in any instance in which they shall so act, they shall report their proceedings and the result of their search or seizure to the nearest district court without unnecessary delay, and any constable or police vidhan or other officer failing to make such report shall be liable, at the discretion of the district court, according to the circumstances of each particular case, to a fine not exceeding five pounds; and if any constable, police vidhan,

or other officer shall not have applied to the district court for a warrant in due course, there having been sufficient time for such application, or shall have wantonly, maliciously, or corruptly exercised any power or authority hereby confided to him, or shall have wilfully exceeded such power or authority, he shall, besides his liability in damages to the party injured, suffer such punishment as the court shall on conviction award.

17. Repealed.

Adulterated salt sold by retailer.

18. Any storekeeper or person authorized or licensed to sell salt, convicted of selling adulterated salt, shall be liable to fine and imprisonment with or without hard labour, at the discretion of the court; and it shall be lawful for any Government agent, assistant Government agent, district judge, or superintendent of police to direct by order under their hands any competent person or persons to examine salt in possession of any licensed salt retailer, and if any salt shall be found within his licensed premises adulterated. such retailer shall in like manner be liable to like fine and imprisonment, and in order to ascertain whether the salt in possession of any retailer has been adulterated, it shall be lawful for the district judge, by order under his hand, to direct the storekeeper by whom such salt was issued to such retailer to attend at the district court with a sufficient specimen of the salt so issued.

Or by Government storekeeper.

19. And whereas it may happen that through fraud or negligence on the part of any storekeeper adulterated, damaged, or spoiled salt may be sold by him on behalf of Government, it shall be lawful for the district judge to direct a fair sample of salt sold and issued from any Government store to be examined, and if the same shall be found to contain any mixture of sand or other impurity exceeding in weight four per cent. the same shall be taken to be and shall be declared adulterated.

Informer's share of fines.

20. A portion, at the discretion of the court, not exceeding one-half, of all fines levied under this Ordinance, shall be paid the person or persons who shall first give such information as shall lead to the conviction of the offender, and in case the offender shall have no property from which such portion can be levied, the Government agent of the province shall on behalf of Government pay to such informer so much thereof as shall not in any one instance exceed the sum of ten pounds; provided the court before which such offender shall have been convicted shall, after hearing cause to the contrary, if any shall be shown on the day to be fixed by the court for the purpose, of which day previous notice shall be given to the Government agent, certify that such informer hath not acted in collusion with such offender, and that it doth not appear that such offender hath property from which such portion can be levied as aforesaid.

21. Has had its effect.

22nd November 1836.

32.

ORDINANCE No. 1 OF 1838.

An Ordinance to amend the Ordinance No. 3 of 1836.

WHEREAS it is expedient to discontinue the sale of salt on account of Government in certain parts of the Island of Ceylon and its dependencies, and to exempt such parts thereof from the restrictions to which they are subject under the 12th, 14th, and other clauses of the Ordinance No. 3 of 1836: And whereas it is expedient that the Governor for the time being shall have full and sufficient power to effect the same: Preamble.

From and after the passing of this Ordinance it shall and may be lawful for the Governor for the time being, by any proclamation or proclamations to be by him issued and published in the Government Gazette from time to time to exempt any part or parts of the said island from all or any of the restrictions to which the same are subject under the Ordinance No. 3 of 1836, in regard to the sale, possession, removal, or manufacture of salt; which proclamation or proclamations it shall be lawful for the said Governor for the time being, at any time thereafter, if he shall see fit, to alter, suspend, or revoke by any subsequent proclamation or proclamations, to be issued and published in like manner and under like authority as aforesaid. Governor empowered to exempt any parts of the island from the restrictions of Ordinance No. 3 of 1836.

24th July 1838.

33.

ORDINANCE No. 2 OF 1838.

An Ordinance to repeal the Ordinance No. 5 of 1836.

WHEREAS it is expedient to repeal the Ordinance No. 5 of 1836, entitled "For consolidating and amending the laws concerning Auctioneers and the Duties on Auctions," and to allow of the free sale of property by auction. Preamble.

1. Repealing clause.

2. It shall be lawful for any person to sell and dispose of by public auction any property whatsoever, whether moveable or immoveable, upon such terms and conditions and for such remuneration as may be mutually agreed upon by and between such person and the person or persons employing him, nor shall the proceeds of such sale be subject to any duties whatever. Sales by auction unrestricted. And free of duty.

3. All conditions of sale of property sold as aforesaid shall be exempt from the stamp duty to which they would otherwise be subject under the provisions of the Ordinance No. 6 of 1836. Conditions of sale free of stamp duty.

24th July 1838.

34.

ORDINANCE No. 5 OF 1839.

To regulate the printing and publishing of Newspapers in this Colony.

Preamble.

WHEREAS it is expedient to regulate the printing and publishing of newspapers in this colony:

No person to print or publish a newspaper, until a declaration be made and delivered at the office of the Colonial Secretary.

1. No person shall print or publish, or shall cause to be printed or published, any newspaper in this colony, until there shall have been delivered at the office of the Colonial Secretary in Colombo a declaration in writing, setting forth the title of the newspaper to which the same shall relate, and a true description of the house or building wherein such newspaper shall be intended to be printed and published, by, for, or on behalf of the proprietor thereof, and also the true name, addition, and place of abode of every person who is intended to be a printer or to conduct the actual printing of such newspaper, and of every person who is intended to be the publisher thereof, and of every person who shall be a proprietor of such newspaper; and every such declaration shall be made before some district judge, and signed by every person named therein, as printer, publisher, or proprietor of the newspaper to which such declaration shall relate; and whenever and so often as any printer, publisher, or person conducting the actual printing of such newspaper named in such declaration shall be changed or shall change his place of abode, and whenever and so often as any proprietor named in such declaration shall be changed or shall intend departing from this colony, a declaration of such change as aforesaid, or of such intended departure from this colony, shall be made before a district court, and delivered into the office of the Colonial Secretary, and also whenever and so often as the title of any such newspaper, or the printing office, or the place of publication thereof shall be changed: And if any person shall knowingly and wilfully sign and make any such declaration, in which shall be inserted or set forth the name, addition, or place of abode of any person as a proprietor, publisher, printer, or conductor of the actual printing of any newspaper to which such declaration shall relate, who shall not be a proprietor, printer, publisher, or conductor thereof, or from which shall be omitted the name, addition, or place of abode of any proprietor, publisher, printer, or conductor of the actual printing of such newspaper, contrary to the true meaning of this Ordinance, or in which any matter or thing by this Ordinance required to be set forth shall be set forth otherwise than according to the truth, or from which any matter or thing required by this Ordinance to be truly set forth shall be omitted, every such offender, being convicted thereof, shall be deemed guilty of a misdemeanor and punished accordingly.

Fresh declaration to be made in certain cases.

Penalty on making false declaration.

Penalty for printing or publishing a newspaper,

2. If any person shall knowingly or wilfully print or publish, or shall cause to be printed or published, or shall, as a proprietor or otherwise, sell or deliver out any newspaper relating to which

such declaration as aforesaid, containing such matters and things as are required by this Ordinance to be therein contained, shall not have been duly signed and made and delivered when and so often as by this Ordinance is required, or any other matter or thing required to be done or performed shall not have been accordingly done or performed, every person in any such case offending shall, on conviction thereof, forfeit for every such act done the sum of fifty pounds for every day on which any such newspaper shall be printed or published, sold, or delivered out before or until such declaration shall be signed and made and delivered, or before or until such other matter or thing shall be done or performed, as by this Ordinance is directed.

such declaration not having been made, 50*l.*

3. All such declarations as aforesaid shall be filed and kept in the office of the Colonial Secretary in such manner as the Governor may direct for the safe custody thereof, and copies thereof, certified by the Colonial Secretary or Assistant Colonial Secretary to be true copies, shall be delivered to any person requiring the same upon payment of the sum of three shillings and no more ; and in all proceedings civil or criminal, and upon every occasion whatsoever touching any newspaper mentioned in any such declaration, or touching any publication, matter, or thing, contained in any such newspaper, any certified copy of such declaration as aforesaid shall, on proof only of the signature of the Colonial Secretary or Assistant Colonial Secretary certifying the same, be conclusive evidence of the truth of all such matters set forth in such declarations as are hereby required to be therein set forth, and of their continuance respectively, in the same condition to the time in question, against every person who shall have signed such declaration, unless it be proved that previous to the publication in question on such trial, such person did duly sign and make a declaration that such person had ceased to be a printer, publisher, or proprietor of such newspaper, and did duly deliver the same at the office of the Colonial Secretary, or unless it shall be proved that previous to such occasion as aforesaid a new declaration of the same or a similar nature respectively, or such as may be required by law, was duly signed and made and delivered as aforesaid, respecting the same newspaper, in which the person sought to be affected on such trial did not join ; and whenever a certified copy of any such declaration as aforesaid shall have been produced in evidence as aforesaid against any person having made and signed such declaration, and a newspaper shall afterwards be produced in evidence, intituled in the same manner as the newspaper mentioned in such declaration is intituled, or wherein the name of the printer and publisher, and the place of printing, shall be the same as the name of the printer and publisher and the place of printing mentioned in such declaration, or shall purport to be the same, whether such title, name, and place printed upon such newspaper shall be set forth in the same form of words as is contained in the said declaration, or in any form of words varying therefrom, it shall not be necessary for the plaintiff, informant, or prosecutor in any action, prosecution, or other proceeding, to prove that the newspaper to which such action, prosecution, or other proceeding may relate, was

Declarations to be filed, and certified copies to be admitted in evidence against the persons making the same.

After production of the declaration and a newspaper intituled as therein mentioned, it shall not be necessary to prove the purchase of the paper.

purchased of the defendant, or at any house, shop, or office belonging to or occupied by the defendant, or by his servant or workman, or where he may usually carry on the business of printing or publishing such newspaper, or where the same may be usually sold.

Service of legal process at the place of printing or publishing mentioned in the declaration shall be deemed sufficient service.

4. In any suit, prosecution, or proceeding, civil or criminal, against any printer, publisher, or proprietor of any newspaper, service at the house or place mentioned in any such declaration as aforesaid as the house or place at which such newspaper is printed or published, or intended so to be, of any notice, summons, subpœna, rule, order, writ, or process of what nature soever, either to enforce an appearance, or for any other purpose whatsoever, shall be taken to be good and sufficient service thereof respectively upon and against every person named in such declaration as the printer, publisher, or proprietor of the newspaper mentioned in such declaration.

Name of printer and other particulars to be printed on newspapers.

5. At the end of every newspaper, and of any and every supplement sheets thereto, shall be printed the christian name, surname, and place of abode of the printer and publisher of the same, and also a true description of the house or building where the same is actually printed and published respectively, and the day of the week, month, and year on which the same is published; and if any person shall knowingly and wilfully print or publish or cause to be printed or published any newspaper or supplement sheets wherein the several particulars aforesaid shall not be printed, or wherein there shall be printed any false name, addition, place, or day, or wherein there shall be printed any description of the place of printing or publishing such newspaper which shall be different in any respect from the description of the house or building mentioned in the declaration required by this Ordinance to be made relating to such newspaper as the house or building wherein such newspaper is intended to be printed or published, every such person shall on conviction thereof forfeit for any and every such offence the sum of twenty pounds.

Copies of newspapers shall be delivered to the Colonial Secretary.

6. The printer or publisher of every newspaper printed in this colony shall, upon every day on which such newspaper shall be published, or on the day next following which shall not be a holiday, deliver or cause to be delivered at the office of the Colonial Secretary in Colombo, if such newspaper be published within twenty miles of Colombo, or if published elsewhere, to the Government agent of the province wherein the same is published, for the Colonial Secretary, one copy of every such newspaper, and of every second or other varied edition or impression thereof so printed or published, with the name and place of abode of the printer or publisher thereof signed and written thereon after the same shall be printed, by his proper hand, and in his accustomed manner of signing, or by some person appointed and authorized by him for that purpose, and of whose appointment and authority due notice in writing signed by such printer or publisher shall be given to the Colonial Secretary, or to the Government agent to whom such copies are to be delivered; and such printer or publisher shall be entitled to demand and receive once in every month from the officers

aforesaid to whom such newspapers shall be delivered the ordinary price of the newspapers so delivered; and every printer and publisher of such newspaper who shall neglect to deliver or cause to be delivered in manner herein-before directed such copy or copies signed as aforesaid shall, on conviction thereof, forfeit for every such neglect the sum of twenty pounds; and in case any person shall require any such newspaper so signed and delivered to be produced in evidence in any proceeding, civil or criminal, the Colonial Secretary shall cause such newspaper to be produced in court when required at the expense of the party applying for it, or shall deliver the same to such party, taking reasonable security for his returning it, and all copies so delivered as aforesaid shall be evidence against every printer, publisher, and proprietor of every such newspaper in all proceedings civil or criminal to be commenced or carried on as well touching such newspapers as any matter or thing therein contained, and touching any other newspaper, and any matter or thing therein contained, which shall be of the same title, purport, or effect with such copy so delivered as aforesaid, although such copy may vary in some instances or particulars, either as to title, purport, or effect; and every printer, publisher, or proprietor of any copy so delivered as aforesaid shall to all intents and purposes be deemed to be the printer, publisher, or proprietor respectively of all newspapers which shall be of the same title, purport, or effect with such copies or impressions so delivered as aforesaid, notwithstanding such variance as aforesaid, unless such printer, publisher, or proprietor respectively shall prove that such newspapers were not printed or published by him, nor by nor with his knowledge or privity.

Construction of the terms used in this Ordinance.

7. Whenever in this Ordinance the word newspaper is used, such word shall be understood and construed to include any paper containing public news, intelligence, or occurrences, printed in this colony, in whatever way or form the same may be printed or published; and whenever in this Ordinance any word or words used in this Ordinance is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Government Gazette and papers published by authority of Government exempted.

8 Provided always, that nothing in this Ordinance contained shall extend to the Government Gazette, or to any proclamation, notice, or other public paper printed and published by authority of Government, or to any papers containing only lists of prices current, or the state of the markets, or accounts of the arrival, sailing, or other circumstances relating to merchant ships or vessels, or advertisements of a commercial or like nature, or advertisements previously published in the Government Gazette.

9. Has had its effect.

18th December 1839.

35.

ORDINANCE No. 4 OF 1840.

For the Supply of Bullock Carts and other means of Transport required for Her Majesty's Forces and their Baggage on Marches in this Colony.

Preamble.

WHEREAS it is expedient to make regular provision for the supply of bullock carts and other means of transport required for Her Majesty's forces and their baggage on marches in this colony:

Supply of bullock carts and bullocks.

Mode of proceeding and rate.

1. All district courts within their respective jurisdictions, upon production of a requisition for that purpose signed by the Governor or the senior officer of Her Majesty's forces, or other person duly authorized on that behalf, shall issue a warrant to any constable, police vidhan, or peace officer, requiring him to provide the number of bullock carts, bullocks, and drivers mentioned in such requisition, and allowing sufficient time to do the same, and specifying the weights which such bullock carts or bullocks shall carry, the places from and to which the said bullock carts, bullocks, and drivers shall travel, and the distance between the places, and also the rate of hire or payment which shall be demanded for the same; and such distance and rate shall be according to the distance and rate of hire for which bullock carts or bullocks are usually let out on private hire at the place where the same are impressed, together with such extra compensation as the district court shall, under the circumstances, consider to be reasonable, but making no allowance for dues or tolls on roads, bridges, or ferries, which are herein declared not to be demandable for the same while employed on such service, or returning therefrom; and the said constable, police vidhan, or peace officer shall, on receiving such warrant, order persons having bullock carts or bullocks to furnish the requisite supply, who are hereby required to furnish the same accordingly, together with proper drivers; and when it shall appear by a certificate of any district judge that sufficient bullock carts or bullocks cannot be procured within his district, any adjoining district court shall within its jurisdiction by a like course of proceeding supply the deficiency.

Bullock carts plying for common hire liable to be impressed before private carts.

2. All bullock carts plying for hire or the conveyance of goods shall be liable to be impressed under the provisions of this Ordinance before any carts kept by individuals exclusively for private use, and not let out for common hire. [Rest repealed.]

3–6. Repealed.

Half of rate to be paid before loading.

7. The owners or drivers of any bullock carts or bullocks impressed under this Ordinance shall be entitled to be paid one-half of the hire thereof, according to the rate allowed by and specified in the warrant of the district court, before his bullock cart or bullocks shall be loaded; and no bullock cart or bullocks shall be liable to carry a greater weight than shall be specified in the

warrant of the district court, and the loading of such bullock cart or bullock shall be first weighed, if required, at the expense of the party in fault, provided that the same can be done in a reasonable time without hindrance to Her Majesty's service; and whenever it shall be necessary to impress bullock carts or bullocks for a march under this Ordinance, at least twenty-four hours notice shall be given, and in case of emergency as long notice as the case will admit shall be given to the constable, police vidhan, or peace officer who shall have to order the requisite supply; and the owner or owners of every bullock cart or bullock which shall be detained and employed under this Ordinance shall, upon the discharge of such bullock cart or bullocks, be entitled to a certificate of such service or employment; and no owner of any bullock cart or bullock shall be liable to have the same detained and employed under this Ordinance against his or her will, oftener than once in each year, except in case of pressing emergency.

Weight of loading.

Twenty-four hours' notice to constables for providing carts.

Certificate of employment to be given, and carts not liable to be impressed oftener than once a year.

8. It shall be lawful for the Governor by his warrant, distinctly stating that a case of emergency doth exist, to authorize any officer commanding Her Majesty's troops in any district or place, or any commissariat officer or agent for the supply of military stores and provisions, to make a requisition in writing under his hand to any district court within its jurisdiction to issue its warrant for the provision, not only of bullock carts and bullocks kept by or belonging to any person and for any use whatsoever, but also of horses, carriages, hackeries, waggons, and vehicles, and also of boats, barges, and other vessels used for the transport of any commodities whatsoever upon any canal or navigable river, as shall be mentioned in the said requisition, therein specifying the place and distance to which such carriages, horses, or vessels shall go; and on the production of the said requisition to any district court, such court shall, within its jurisdiction, take all the same proceedings in regard to such additional supply so required on the said emergencies as the said courts are by this Ordinance required to take for the ordinary provision of bullock carts or bullocks; and all provisions whatsoever of this Ordinance, as regards the procuring of the ordinary supply of bullock carts and bullocks, and the duties of the constables or other officers and owners of bullock carts and bullocks in that behalf, shall be to all intents applicable for the providing and payment according to the rate of hire usually paid for such other description of carriages or vessels so required on emergency, according to the length of the journey or voyage in such case; and it shall be lawful to convey thereon, not only the baggage, provisions, and military stores of any regiment or detachment, but also the officers, soldiers, servants, women, children, and other persons of or belonging to the same.

Supply of carriages, &c. in cases of emergency.

9. If any constable, police vidhan, or other peace officer shall wilfully neglect or refuse to execute any warrant aforesaid of the district court which shall be directed to him for providing bullock carts or bullocks, horses, carriages, or vessels, or if any any person appointed by such constable to provide bullock carts or bullocks, horses, carriages, or vessels, shall refuse or neglect to supply the same, or do any act or thing by which the execution

Penalties upon persons offending against provisions of this Ordinance.

of such warrant shall be hindered, such constable, police vidhan, peace officer, or other person shall forfeit for every such offence, neglect, or refusal any sum not exceeding five pounds nor less than two pounds, and the register or licence of every bullock cart for which default shall be made shall be thereupon forfeited, and the plate thereof accordingly ordered to be removed from such cart.

Forfeiture of licence of bullock cart.

Penalties upon the military so offending.

10. If any military officer, non-commissioned officer, or soldier shall, except on emergency, constrain any bullock cart, or carriage, or vessel to proceed beyond the distance specified in the warrant of the district court, or shall compel the owners or driver to take up any soldier or servant (except such as are sick) or shall otherwise, contrary to the will of the owner or driver, cause or permit any greater load to be put upon any carriage than is directed by this Ordinance, such officer, non-commissioned officer, or soldier shall, upon conviction, forfeit for every such offence any sum not exceeding five pounds nor less than two pounds.

Fines to be levied by distress.

11. All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender or offenders; and in default of payment the offender or offenders shall be liable to imprisonment not exceeding three calendar months, and it shall also be lawful for any court before whom any such offender may be convicted to order at its discretion the whole or any part of such fine or penalty when recovered to be paid over or applied to the use and benefit of the person who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

Informer's share.

Construction of terms.

12. Whenever the words "bullock carts" or "bullocks" are used in this Ordinance, such words shall be respectively understood and construed to include buffalo carts as well as bullock carts, and buffaloes as well as bullocks, and that whenever any word or words is or are used in this Ordinance importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

13. Has had its effect.

13th January 1840.

36.

Ordinance No. 7 of 1840.

To provide more effectually for the Prevention of Frauds and Perjuries.

Preamble.

Whereas it is expedient to repeal the Ordinance No. 7 of 1834, entitled an "Ordinance to assimilate, amend, and consolidate the

" laws now in force in the different parts of this island for the " prevention of Frauds and Perjuries," and to provide more effectually for the prevention of frauds and perjuries:

1. Repealing clause.

Deeds affecting immoveable property to be executed before a notary and witnesses.

2. No sale, purchase, transfer, assignment, or mortgage of land or other immoveable property, and no promise, bargain, contract, or agreement for effecting any such object, or for establishing any security, interest, or incumbrance affecting land or other immoveable property, (other than a lease at will, or for any period not exceeding one month,) nor any contract or agreement for the future sale or purchase of any land or other immoveable property, shall be of force or avail in law, unless the same shall be in writing and signed by the party making the same, or by some person lawfully authorized by him or her in the presence of a licensed notary public and two or more witnesses present at the same time, and unless the execution of such writing, deed, or instrument be duly attested by such notary and witnesses.

Every will shall be in writing, and signed by the testator in the presence of two witnesses at one time.

3. No will, testament, or codicil containing any devise of land or other immoveable property, or any bequest of moveable property, or for any other purpose whatsoever, shall be valid unless it shall be in writing and executed in manner herein-after mentioned; (that is to say,) it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of a licensed notary public and two or more witnesses, who shall be present at the same time and duly attest such execution, or if no notary shall be present, then such signature shall be made or acknowledged by the testator in presence of five or more witnesses present at the same time, and such witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

Appointments by will to be executed like other wills, and to be valid although other required solemnities are not observed.

4. No appointment made by will, testament, or codicil in exercise of any power shall be valid unless the same be executed in manner herein-before required; and every will, testament, or codicil executed in manner herein-before required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, testament, or codicil, notwithstanding that it shall have been expressly required that a will, testament, or codicil, made in exercise of such power, should be executed with some additional or other form of execution or solemnity.

No will to be revoked but by another will or codicil, or by a writing executed like a will, or by destruction.

5. No will, testament, or codicil, or any part thereof, shall be revoked otherwise than by the marriage of the testator or testatrix, or by another will, testament, or codicil executed in manner herein-before required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will, testament, or codicil is herein-before required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator or testatrix, or by some person in his or her presence, and by his or her direction, with the intention of revoking the same.

No alteration in a will shall have any effect unless executed as a will.

6. No obliteration, interlineation, or other alteration made in any will, testament, or codicil after the execution thereof shall be valid or have any effect, except so far as the words or effect of

the will, testament, or codicil before such alteration shall not be apparent, unless such alteration shall be executed in like manner as herein-before is required for the execution of the will, but the will, testament, or codicil, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator or testatrix, and the subscription of the witnesses be made in the margin or some other part of the will, testament, or codicil opposite or near to such alteration, or at the foot or end of or opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will, testament, or codicil.

No will revoked to be revived otherwise than by re-execution, or a codicil to revive it.

7. No will, testament, or codicil, or any part thereof, which shall be in any manner revoked shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner herein-before required, and showing an intention to revive the same; and when any will, testament, or codicil which shall be partly revoked and afterwards wholly revoked shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown.

Publication not to be requisite.

8. Every will, testament, or codicil executed in manner herein-before required shall be valid without any other publication thereof; provided always, that every such will, testament, or codicil shall, after the decease of the testator or testatrix, be duly proved and recorded in the district court empowered by the charter to grant probate or administration in such case, according to such general rules of practice as may now or hereafter be made by the judges of the Supreme Court.

Will not to be void on account of incompetency of attesting witness.

9. If any person who shall attest the execution of any will, testament, or codicil shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will, testament, or codicil shall not on that account be invalid.

Gifts to an attesting witness to be void.

10. If any person shall attest the execution of any will, testament, or codicil to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, disposition, or appointment of or affecting any immoveable or moveable property (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift, disposition, or appointment shall, so far only as concerns such person attesting the execution of such will, testament, or codicil, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as witness to prove the execution, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, disposition, or appointment mentioned in such will, testament, or codicil.

Creditor attesting to be admitted a witness.

11. In case by any will, testament, or codicil any immoveable or moveable property shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor whose debt is so charged, shall attest the execution of such will, testament, or codicil, such creditor, notwithstanding such charge, shall be ad-

mitted a witness to prove the execution of such will, testament, or codicil, or to prove the validity or invalidity thereof.

12. That no person shall, on account of his or her being an executor or executrix of a will, testament, or codicil, be incompetent to be admitted a witness to prove the execution of such will, testament, or codicil, or a witness to prove the validity or invalidity thereof; nor shall any executor or executrix, by reason of his or her attesting such will, forfeit the recompence or commission for his or her trouble payable by law, custom, or practice.

Executor to be admitted a witness.

13. Notwithstanding anything in this Ordinance contained, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Ordinance.

Soldiers and mariners wills excepted.

14. No writing, deed, or instrument for the purposes aforesaid, and no will, testament, or codicil which shall have been made prior to the passing of this Ordinance, shall be deemed or taken to be invalid by reason alone of the same not having been executed and acknowledged before or attested by a notary licensed to practise within the district wherein the land or property devised or to be affected by such writing, deed, or instrument, will, testament, or codicil, is situated, any provision in the herein-before repealed Ordinance No. 7 of 1834 to the contrary notwithstanding: Provided always, that every such writing, deed, or instrument, will, testament, or codicil, shall have been at the time of the date thereof duly executed, acknowledged before, or attested by a notary licensed to practise in some other district.

Deeds executed before other than proper notary prior to passing of Ordinance.

15. Every deed or other instrument, except any will, testament, or codicil required by this Ordinance to be executed or acknowledged before or to be attested by a notary, shall be executed, acknowledged, or attested in duplicate. [Rest repealed.]

16–19. Repealed.

20. None of the foregoing provisions in this Ordinance shall be taken as applying to any grants, sales, or other conveyances of land or other immoveable property from or to Government, or to any mortgage of land or other immoveable property made to Government, or to any deed or instrument touching land or other immoveable property to which Government shall be a party, or to any certificates of sales granted by fiscals of land or other immoveable property sold under writs of execution.

Ordinance not to affect sales by Government, &c.

21. No promise, contract, bargain, or agreement, unless it be in writing and signed by the party making the same, or by some person thereto lawfully authorized by him or her, shall be of force or avail in law for any of the following purposes:

No promise, &c. to be in force, unless in writing and signed.

1. For charging any person with the debt, default, or miscarriage of another.
2. For pledging moveable property, unless the same shall have been actually delivered to the person to whom it is alleged to have been pledged.
3. For the purchase or sale of any moveable property, unless such property or part thereof shall have been delivered to the purchaser, or the price or a part thereof have been paid by the purchaser.

4. For establishing a partnership where the capital exceeds one hundred pounds: Provided that this shall not be construed to prevent third parties from suing partners, or persons acting as such, and offering in evidence circumstances to prove a partnership existing between such persons, or to exclude parol testimony concerning transactions by or the settlement of any account between partners.

Proviso.

22. Provided always, that nothing in the preceding clause shall be construed to exempt any deed or instrument in any manner affecting land or other immoveable property from being required for that purpose to be executed and attested in manner declared by the second clause of this Ordinance.

23. Has had its effect.

18th January 1840.

37.

ORDINANCE No. 11 OF 1840.

To amend the Law relative to the Establishment of Lunatic Asylums, and to make further general provisions for the proper care and custody of insane persons.

Preamble.

WHEREAS it is expedient to amend the law relative to the establishment of lunatic asylums, and to make further general provisions for the proper care and custody of insane persons:

1. Repealing clause.

Lunatic asylums to be established as Governor may appoint.

2. There shall be a lunatic asylum for the reception of insane persons, established and maintained at the expense and under the management of Government, at Colombo or such other place within the Western Province as the Governor may select and appoint, and similar lunatic asylums shall in like manner be established within the other provinces of this island as the Governor may hereafter from time to time deem necessary and direct.

Regulations for management.

Appointment of officers.

3. It shall be lawful for the Governor to make such regulations as to him shall seem expedient for the management and conduct of any lunatic asylum established under this Ordinance, and to appoint a superintendent thereof with such number and description of officers and assistants as may be found necessary.

District court may order insane paupers or vagrants to be placed in lunatic asylum.

4. Upon its being made known to the district court by the headman, police vidahn, or other peace officer of any town or village within the district that any person being a destitute pauper or vagrant is insane, or if complaint shall be made thereto that any person has been discovered and apprehended under any circumstances which denote a derangement of mind and a purpose of committing some crime for which if committed he would be liable to be prosecuted, it shall be lawful for the said district court to make order for any such person to be brought up before it, and if upon view and examination of the said person, or other proof, the said

Dangerous lunatics.

district court shall be satisfied that such person is an insane pauper or vagrant, or a dangerous lunatic or idiot, and that no relative or friend will undertake to enter into security for his or her proper custody, care, and maintenance, in such case the said district court may make order for such insane person being conveyed to and placed in the lunatic asylum; and if there shall be no lunatic asylum within the district, then the said district court may further make order for such insane person being committed to the fiscal for safe custody until such person can be transferred under the warrant of the Governor to a lunatic asylum on the first convenient opportunity.

5. When application at any time by any relative or friend of an insane pauper or vagrant, or dangerous lunatic or idiot, confined in any lunatic asylum, or in the custody of the fiscal for the purpose of being transferred to a lunatic asylum (not being under any criminal warrant), shall be made to the district court under whose order such person shall have been placed therein, or to the Governor, requesting that such insane person may be delivered over to the care and maintenance of such relative or friend, it shall be lawful for the said district court or the Governor, upon such reasonable security as may be required being given by such relative or friend to take care of and maintain such insane person, to direct the immediate discharge of such person; and every person committed under the preceding clause to any lunatic asylum shall be immediately discharged therefrom by order of the Governor upon his or her recovery being certified by the medical officer attending such asylum; and in all cases where any such lunatic shall have been removed, under the power of this Ordinance, to any lunatic asylum out of the province to which he or she belongs, such person shall, upon being discharged from such lunatic asylum, either upon application as aforesaid or upon his or her recovery, be conveyed back by Government to his or her own village or usual place of former residence, or be allowed such reasonable batta or sum for his or her travelling expenses thereto as shall be approved of by the Governor under any rule or order to be issued for that purpose.

On application and security relatives may take insane pauper or vagrant, &c. under their own care.

Discharge on recovery.

Insane pauper, if removed out of his province, before discharge, to receive allowance for expenses.

6. It shall be lawful for the Governor, upon any petition being presented by any relative or friend of any insane person (not being a pauper), requesting that such insane person may be admitted into a lunatic asylum, and offering to enter into such security as is herein-after mentioned for the expenses of his or her care and maintenance, to issue his warrant to the superintendent of such lunatic asylum to direct that such person shall, on being brought to such lunatic asylum by his or her relative or friend, be examined by the medical officer attending such lunatic asylum, and upon the said officer granting a certificate of such person being insane, that he or she shall be thereupon admitted into the lunatic asylum, to be therein taken care of and maintained until his or her recovery, or application be made for his or her discharge by any relative or friend, or failure of payment of the rate herein-after required: Provided always, that a bond with sufficient sureties shall, previous to the admission of any such insane person, be given by his or her relative or friend for the due payment of

Governor may, on petition of relatives, admit insane persons (not being paupers) into lunatic asylum.

Proviso for bond to pay the weekly allowance or rate

and contingent expense of such person.

such weekly rate or allowance as may be fixed and declared payable by the general regulations of such lunatic asylum on the reception therein of such insane person, together with all other expenses contingent upon the maintenance and care of such insane person during his or her continuance in such lunatic asylum, as well as for the removal of such insane person within fourteen days after due notice given in writing by the superintendent of such lunatic asylum to the said relative or friend of such insane peason, or at his or her last place of abode; and in default of any of the conditions of the said bond being duly performed, the amount due under such bond shall be recoverable as other debts of a like nature due to the Crown.

Person charged with crime, if insane at time or on commission of offence, to be sent to lunatic asylum.

7. When any person shall be charged with any crime or offence, if it shall be proved to the satisfaction of the court, by any forms of proceeding or inquiry which shall be established by law or by any general rules of practice, that the said person is either unable to stand his trial by reason of his or her being insane, or was insane at the time of the commission of the said crime or offence, the court may order such person to be kept in strict custody until the Governor's pleasure shall be known; whereupon the Governor may issue his warrant to order the removal of such insane person to any lunatic asylum established under this Ordinance; and may give such other order for the safe custody of such insane person in such place or manner as to the Governor shall seem fit.

Prisoners under sentence in gaol, on becoming insane, to be removed to lunatic asylum.

8. If any person under imprisonment in any gaol shall become insane, and a report shall be made to the Governor by the fiscal of the province wherein the said gaol is situated, with a certificate of the medical officer thereof, that such person is insane, it shall be lawful for the Governor to direct, by warrant under his hand, that such person shall be removed to any lunatic asylum established under this Ordinance, to be there detained until the expiration of the sentence under which such person may have been imprisoned; and if such person shall become of sound mind before the expiration of such sentence, of which the period of his or her detention in such lunatic asylum shall be reckoned as part, the Governor shall thereupon issue his warrant to the superintendent of the lunatic asylum directing that such person shall be removed back from thence to the gaol or other place of confinement from whence he shall have been taken, or shall give such other orders thereon as to the Governor shall seem fit; and the fiscal from whose custody such insane person shall be removed shall at the time of delivering over such person furnish the superintendent of the lunatic asylum with a copy of the sentence under which such person shall have been imprisoned.

Further proceeding at expiration of sentence.

9. The superintendent of any lunatic asylum to which any person shall be removed under the provisions of the preceding clause shall, at least fourteen days before the expiration of the sentence under which such person shall have been imprisoned, report the same to the district court of the district in which such lunatic asylum shall be situated; and if the said district court shall, upon inquiry, be satisfied that such person is still insane, and that he or she would, if discharged, become destitute or a

vagrant, or that such person is a dangerous lunatic or idiot, in any such case the said district court may order such person to be detained in the said lunatic asylum until discharged therefrom by order of the Governor, upon his or her recovery being certified by the medical officer attending such asylum.

Property of insane criminals and dangerous lunatics to be applied for their maintenance in lunatic asylums.

10. In all cases where any person shall be kept in custody as an insane person accused or convicted of any crime, or as a dangerous lunatic or idiot, by order of any court or by the Governor's order consequent thereon, and shall be transferred to any lunatic asylum, it shall and may be lawful for the district court to make inquiry into the circumstances of the personal legal disability of such person, and as to his or her property, and if it shall appear that such person is possessed of sufficient property which can be applied for his or her maintenance, it shall be lawful for the said district court to order and direct so much of the same as shall be necessary to be applied to pay and satisfy the expenses of the maintenance and care of such person according to such usual allowance or rate as may be fixed and declared to be payable under the general regulations of such lunatic asylum.

23rd October 1840.

38.

ORDINANCE No. 12 OF 1840.

To prevent Encroachments upon Crown Lands.

Preamble.

WHEREAS divers persons, without any probable claim or pretence of title, have taken possession of lands in this colony belonging to Her Majesty, and it is necessary that provision be made for the prevention of such encroachments:

Information of encroachment.

1. It shall and may be lawful for the district court, upon information supported by affidavit charging any person or persons with having, without probable claim or pretence of title, entered upon or taken possession of any land which belongs to Her Majesty, Her heirs or successors, to issue its summons for the appearance before it of the party or parties alleged to have so illegally entered upon or taken possession of such land, and of any other person or persons whom it may be necessary or proper to examine as a witness or witnesses, on the hearing of any such information; and the said district court shall proceed in a summary way in the presence of the parties, or in case of wilful absence of any person against whom any such information shall have been laid, then in his absence, to hear and determine such information; and in case on the hearing thereof it shall be made to appear by the examination of the said party or parties, or other sufficient evidence, to the satisfaction of such district court, that the said party or parties against whom such information shall have been laid hath or have entered upon or taken possession of the land mentioned or referred to in such information without any probable claim or pretence of title, and that such party or

parties hath or have not cultivated, planted, or otherwise improved and held uninterrupted possession of such land for the period of thirty years or upwards, then, and not otherwise, such district court is hereby authorized and required to make an order directing such party or parties to deliver up to Her Majesty, Her heirs or successors, peaceable possession of such land, together with all crops growing thereon, and all buildings and other immoveable property upon and affixed to the said land, and to pay the costs of such information; and in case the party or parties against whom any such order shall have been made shall not, within fourteen days after service thereof, deliver up possession of the said land and premises, pursuant to the said order, or shall afterwards make or cause to be made any further encroachments upon the said land or premises, contrary to such order or in evasion thereof, then and in such case it shall be lawful for such district court to adjudge such party or parties to pay a fine not exceeding five pounds, or to be imprisoned, with or without hard labour, for any time not exceeding fourteen days, and to make a further order for the immediate delivery over of the possession of such land and premises to Her Majesty, Her heirs or successors; and the district court shall thereupon cause possession thereof to be delivered to Her Majesty, Her heirs or successors accordingly.

Order for delivery up of possession.

Penalty on disobedience of order or renewed encroachment.

Subsequent proceeding by ordinary course of law.

2. Any person against whom any such order as aforesaid may have been made may, notwithstanding such order, proceed by the ordinary course of law to recover possession of such lands, in case he shall be able to establish a title thereto; and may also in such case recover a reasonable compensation for the damage he may have sustained by reason of his having been compelled to deliver up possession of the said premises, and in like manner, in case of the dismissal of any such information, the party having preferred the same may proceed according to the ordinary course of law, as if no such information had been preferred.

Court may order payment of costs.

3. Provided always, that in case any such information shall be dismissed, it shall be lawful for the said district court, if it shall think fit, to order payment by Government to the party or parties against whom the same may have been preferred of such sum as the said court may consider to be the amount of costs fairly incurred by such party or parties by reason of such information so dismissed.

Proceedings subject to rules of court.

4. The forms of the proceedings to be observed on lodging complaints, in issuing summonses, in the examination of the party or parties, in the citation of witnesses, in the making orders, and generally for the complete carrying into execution the powers hereby vested in the said district court, shall be according to such general rules of practice as the judges of the Supreme Court may now or hereafter frame thereon.

Cinnamon lands, when the property of the Crown.

5. All cinnamon lands which shall have been uninterruptedly possessed by Government for a period of thirty years and upwards, by peeling the cinnamon growing thereon, shall be held and deemed to be the property of the Crown.

Waste lands to be deemed the

6. All forest, waste, unoccupied or uncultivated lands shall be presumed to be the property of the Crown until the contrary

thereof be proved, and all chenas and other lands which can be only cultivated after intervals of several years shall, if the same be situate within the districts formerly comprised in the Kandian provinces (wherein no thombo registers have been heretofore established), be deemed to belong to the Crown and not to be the property of any private person claiming the same against the Crown, except upon proof only by such person of a sannas or grant for the same, together with satisfactory evidence as to the limits and boundaries thereof, or of such customary taxes, dues, or services having been rendered within twenty years for the same as have been rendered within such period for similar lands being the property of private proprietors in the same districts; and in all other districts in this colony such chena and other lands which can only be cultivated after intervals of several years shall be deemed to be forest or waste lands within the meaning of this clause.

property of the Crown.

7. It shall be lawful for any person in the possession of land to make application in writing to the Government agent of the province in which such land is situate for a certificate of the Crown having no claim to such land, which application shall contain a full description of the property, together with a survey thereof made by or under the authority of the surveyor general, and shall contain a declaration by the applicant, stating the nature of his right, or the manner in which he acquired possession; and if the Government agent shall, upon investigation, be satisfied that the Crown has no claim to such land, he shall, with the consent of the Governor, grant a certificate to that effect to such applicant, and a copy of such certificate shall be previously entered in a book to be kept in the office of the Government agent for that purpose, and such certificate, or any copy from such entry thereof, attested by the Government agent, shall be received by any court as a good and valid title to such land against any right, title, or claim, of the Crown thereto existing at the date of such certificate.

Government agent, when to grant certificate against the right of the Crown.

8. Whenever any person shall have, without any grant or title from Government, taken possession of and cultivated, planted, or otherwise improved any land belonging to Government, and shall have held uninterrupted possession thereof for not less than ten nor more than thirty years, such person shall be entitled to a grant from Government of such land, on payment by him or her of half the improved value of the said land, unless Government shall require the same for public purposes, or for the use of Her Majesty, Her heirs and successors, when such person shall be liable only to be ejected from such land on being paid by Government the half of the improved value thereof, and the full value of any buildings that may have been erected thereon.

If party ten years in uninterrupted possession of Government land.

9. Repealed.

10. All and every encroachment on any public road, street, or highway, by building or other erection, or by enclosure, planting, or otherwise, shall, on information thereof, be immediately abated and removed by judgment, order, or decree of the district court thereon, and the party or parties offending found liable in damages besides the costs of suit.

Encroachment on road, &c.

Headman to give information.

11. Any principal or other headman who shall wilfully or knowingly refuse or neglect to give every information within his knowledge or power immediately to the Government agent of his province, or some assistant agent thereof, of any encroachment made by any person or persons upon any land belonging to Her Majesty, Her heirs or successors, and situated in the district or village of such headman, shall be liable for every such offence to a fine not exceeding ten pounds.

27th October 1840.

39.

ORDINANCE No. 14 OF 1840.

For securing the due Collection of the Duties or Tax upon Paddy and Dry Grain.

Preamble.

WHEREAS it has been found necessary to make effectual provision for securing the due collection of the duties or tax now respectively levied or payable under the proclamations of the 3rd September 1801, and of the 21st November 1818, and by custom, upon or in respect of the crops of paddy and dry grain grown in this island:

Former taxes continued.

1. There shall continue to be levied by and payable to Government a tax of one tenth or such other proportion of the crops of paddy and dry grain grown in and upon all lands now liable thereto as by law, custom, or usage is at present levied or payable.

Notice to be given before crop cut.

2. In every case wherein no special agreement in respect to the tax on any such crop shall have been made between the Government agent or other person in that behalf authorized and the proprietor or cultivator thereof, such crop shall not be cut until notice of the intention to cut the same shall have been given to the headman or other person in that behalf authorized.

Form of notice.

3. The notice required by the preceding clause to be given by the proprietor or cultivator shall be in writing, and shall specify the name and extent of the land, the name and place of abode of the proprietor or cultivator, the day on which the crop is intended to be cut (which shall not be within less than five days from the date of such notice), and the date on which the said notice is given; and the receipt of such notice shall be forthwith acknowledged by the headman or other person authorized to receive the same, by endorsement thereon to be dated and signed, and such notice shall thereupon be returned to the said proprietor or cultivator.

Further notice if cutting postponed.

4. If the crop be not cut on the day notified as aforesaid the proprietor or cultivator shall give renewed notice in like manner as before provided: Provided always, that in such case the crop shall not be cut within less than two days from the date of such renewed notice.

5. In all places where it is the custom to thresh the crop immediately after it has been cut, the cultivator or proprietor of any crop shall, as soon as the whole of such crop shall have been cut, and not sooner, proceed without unnecessary delay to thresh the whole of such crop.

When crop to be threshed immediately.

6. In places where it is not the custom to thresh the crop immediately after it has been cut, the proprietor or cultivator shall, on the whole of the crop being cut and stacked, deliver to the headman or other person in that behalf authorized a description of the quantity of such crop, expressed in such terms as may be customary in such places in respect to crops in such a state; and before any such proprietor or cultivator shall proceed to thresh the said crop, he shall give notice to the headman or other person in that behalf authorized of his intention to thresh the said crop, in the manner herein-before provided in respect to the cutting of such crop, and shall at the time appointed proceed, without unnecessary delay, to thresh the whole of such crop.

Proceeding when crop is stacked before threshing.

7. The mode of ascertaining the quantity due to Government on account of the tax or duty on any crop shall, unless it shall be otherwise agreed on, be by actual division of the produce thereof, and the proprietor or cultivator of the said crop shall (after deducting the usual quantity on account of seed grain, where such deduction is now customary) divide the said crop, as soon as the same shall have been threshed, into equal heaps in number proportioned to the rate of tax payable for such crop, from which the headman or person authorized shall select one as the share due on account of such tax or duty.

Mode of ascertaining tax.

8. In case the tax upon the crops of any district or village shall be rented out by Government, due notice thereof shall be published throughout the limits of such rent, in the usual manner of publishing public notifications, and that in such case all the provisions of the foregoing clauses referring to the headman or other person authorized to act in the matter on behalf of Government shall be considered as equally applicable to and binding upon the renter.

Power of renter if tax rented.

9. When the amount of the tax shall have been set apart and selected in the manner prescribed by the seventh clause of this Ordinance, it shall, if it be deliverable to the Government agent, be delivered at the place at which Government hath been accustomed to receive the said tax, and if it be deliverable to a renter it shall be delivered on the land where it shall have been threshed; and in either case a receipt shall be forthwith granted by the person receiving the same, specifying the date, the quantity received, the name and extent of the land, and for what year and harvest the same is received.

Delivery of tax.

10. If the renters shall neglect or refuse to receive and acknowledge the receipt of the notices herein-before respectively required to be given by the proprietor or cultivator of the intention to cut or to thresh his crop, or if at any time the renter shall be absent from the limits of his rent, or in case only a portion of a village be comprised within those limits, then, if he shall be absent from the said village, it shall be lawful for the proprietor

Notice when to be given to headmen.

or cultivator to give the said notice to the nearest headman, who shall thereupon endorse and return such notice in manner herein-before provided to be done by the renter, and such notice so given to the headman shall in every respect be of the like effect and shall be equally binding on the renter and all parties concerned as if it had been given to the renter himself, and information of the receipt of such notice shall be given by the headman on the first opportunity to the renter; and if the headman shall neglect or refuse to receive any such notice, or to endorse and return the same, he shall be liable to fine at the discretion of the court.

Renter neglecting to attend.

11. If any headman, renter, or other person authorized in that behalf shall neglect or refuse to attend at the appointed time to see any crop cut or threshed, or to receive the Government share thereof, it shall and may be lawful for the said proprietor or cultivator to cut and thresh the said crop in the presence of two respectable persons, and in their presence to set apart the share due, and the said proprietor or cultivator shall obtain a certificate from such two persons, duly signed by them, and specifying the date thereof, the name and extent of the land, the quantity of the whole produce of such crop, and for what year and harvest, and the share thereof set apart on account of the tax upon the same; and such certificate shall be deemed sufficient evidence of a fair allotment of such share, and shall be afterwards produced on application being made for such share.

Penalty on extortion by renter.

12. Any renter who shall wilfully exact or extort from the proprietor or cultivator of any crop more than the share due to Government in respect of the tax upon the same, shall upon conviction be liable to a fine not exceeding ten pounds, and in default of payment to imprisonment, with or without hard labour, at the discretion of the court, not exceeding twelve months.

Appointment of agent by renter.

13. If any renter of the tax upon the crops of any district or village shall appoint any agent to act on his behalf in the receiving of such tax, or to exercise any of the powers herein-before conferred upon such renter, it shall be necessary for such renter to notify such appointment in writing to the principal headman of the division in which such person shall be appointed by him to act on his behalf; and any act done by or with such agent so appointed in furtherance of the provisions of this Ordinance shall to all intents and purposes be deemed to be done by or with such renter.

Penalty on proprietor cutting without notice, &c.

14. Any proprietor or cultivator who shall without giving due notice cut any crop liable to tax, or who shall without giving due notice thresh any such crop as is referred to in the sixth clause of this Ordinance, and any proprietor or cultivator who shall at any time before the delivery of the share due on account of the tax to the person authorized to receive it remove any portion of his crop, and any proprietor or cultivator who shall neglect or refuse to cut and thresh and divide the said crop, and to deliver the share due on account of the tax thereon in manner herein-before enacted, shall on conviction be fined to the amount of double the value of such share, the quantity to be reckoned according to the extent of the land, and at the highest rate, in proportion to the extent

at which the tax shall have been received or ascertained for the same harvest for any land in the same village; and in default of payment he shall be imprisoned, with or without hard labour, at the discretion of the court; provided that such fine shall in no case be less than one shilling and sixpence, and that the imprisonment in default of payment shall be in the proportion of one day for every penny where the fine shall not exceed one shilling and sixpence, and of one month for every five shillings in all other cases, and shall not in the whole exceed twelve months.

Penalty on breach of agreement.

15. In every case wherein a special agreement shall have been made between the Government agent and the proprietor or cultivator of any land for commuting the tax payable thereon, if the proprietor or cultivator shall commit any breach of such agreement he shall be fined to the amount of double the sum payable by such agreement for the tax upon such land for the year in which such breach shall be committed; and in default of payment he shall be imprisoned, with or without hard labour, at the discretion of the court; provided that such fine shall in no case be less than one shilling and sixpence, and that the imprisonment in default of payment shall be in the proportion of one day for every penny where the fine shall not exceed one shilling and sixpence, and of one month for every five shillings in all other cases, and shall not in the whole exceed twelve months.

Further demand of tax barred.

16. If any proprietor or cultivator shall have paid the fine or suffered the imprisonment awarded by either of the two preceding clauses, he shall not be liable to any further demand for the tax on the crop on account of which such fine or imprisonment shall have been awarded.

Tax may be recovered by civil action.

17. Nothing in this Ordinance contained shall be held to prevent the Government or the renter from instituting a civil action for the recovery of the tax due upon any crop, if it shall appear expedient.

Renter to receive half of fines.

18. If the tax upon the crops of any district or village shall be rented, the renter shall, at the termination of his rent, be entitled to receive from Government a sum equal to half of the amount of the fines which may have been imposed under the fourteenth and fifteenth clauses of this Ordinance upon the proprietors or cultivators of any lands included within the limits of his rent division during the period of his rent.

Penalty on resistance of collection of tax.

19. Any person making or inciting any resistance or obstruction to the collection of the tax on any crops by the persons authorized under this Ordinance to collect the same, shall on conviction be liable to a fine not exceeding ten pounds, and in default of payment to imprisonment, with or without hard labour, at the discretion of the court, not exceeding twelve months.

When prosecution barred.

20. No prosecution under this Ordinance shall be commenced after the expiration of two months from the time of the commission of the offence if the tax shall be rented, nor after the expiration of six months therefrom if the tax shall be collected by Government.

27th October 1840.

40.

ORDINANCE No. 17 OF 1840.

To make further provision for the Protection of Her Majesty's Revenue derived from Salt.

Preamble.

WHEREAS it is expedient to make further provision for the protection of Her Majesty's revenue derived from salt:

Possession, removal, or sale of salt other than salt collected or manufactured by Government illegal.

1. From and after the first day of January next the possession, removal, or sale of any salt whatever in districts either not enumerated in the third clause of the Ordinance No. 3 of 1836, or which may now or hereafter be released from certain restrictions by the aforesaid Ordinance, by Proclamations issued or to be issued by the Governor under the provisions of the Ordinance No. 1 of 1838, shall be unlawful, unless such salt be of the same kind and description as the salt manufactured or collected in some part or parts of this island on account of Government, and shall subject the person or persons possessing, removing, or selling such salt, if not duly accounted for, to the penalties respectively prescribed by the said Ordinance No. 3 of 1836, for the illicit possession, removal, or sale of salt.

9th November 1840.

41.

ORDER IN COUNCIL.

At the COURT at WINDSOR, the 11th of AUGUST 1841.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

His Royal Highness Prince Albert.	Lord Chamberlain.
Marquis of Normanby.	Viscount Duncannon.
Viscount Melbourne.	Viscount Palmerston.
	Mr. Stanley.

Order in Council, 11th August 1841.

WHEREAS on the 27th day of October 1840 an Ordinance was enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, intituled "Ordinance enacted "by the Governor of Ceylon, with the advice and consent of the "Legislative Council thereof, to prevent Encroachments upon "Crown Lands:"

Now therefore Her Majesty, by and with the advice of Her Privy Council, hath been pleased to confirm and allow the said Ordinance, subject to the amendments herein-after mentioned, and the said Ordinance is hereby, subject to these amendments, confirmed and allowed accordingly:

And whereas the period of thirty years or upwards of uninterrupted possession, which by the said recited Ordinance is limited as the period after which an order for delivering up possession of land may not be made, is unreasonably long, Her Majesty is, with the advice aforesaid, pleased to order, and it is hereby ordered, that the said recited Ordinance shall be and the same is hereby amended by the substitution of the period of five years for the before-mentioned period of thirty years.

And the Right Honourable Lord John Russell, one of Her Majesty's Secretaries of State, is to give the necessary directions herein accordingly.

C. C. GREVILLE.

42.

ORDINANCE No. 4 OF 1841.

To amend the Laws relating to Vagrants.

WHEREAS it is expedient to amend the laws relating to vagrants: Preamble.

1. Repealing clause.

2. Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine not exceeding ten shillings; provided nevertheless that every person convicted four times of such conduct shall, for every subsequent offence, be punishable in the manner declared in the following clause respecting idle and disorderly persons. Punishment of persons behaving riotously or disorderly in the public streets.

3. Every person committing any of the offences herein-after mentioned in this clause shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding twenty shillings: Persons committing offences herein mentioned to be deemed idle and disorderly persons.

1. Every person being able to maintain himself by work or other means, but who shall wilfully refuse or neglect so to do, and shall wander abroad or place himself in any public place, street, highway, court, or passage, to beg or gather alms, or cause, or procure, or encourage any of his family so to do, excepting priests and pilgrims in performance of their religious vows, not being mendicants of the description mentioned in the second section of the following clause.
2. Every person being able, wholly or in part, to maintain his family, leaving his wife or his child, legitimate or otherwise, without maintenance or support, whereby they shall become chargeable to or require to be supported by others.
3. Every common prostitute wandering in the public street or highway, or in any place of public resort, and behaving in a riotous or indecent manner.

4. Every person wandering abroad or lodging in any verandah, outhouse, shed, or unoccupied building, or in any cart, vehicle, or other receptacle, without leave of the owner thereof, and not having any visible means of subsistence, and not giving a good account of himself.
5. Every person, without leave of the owner, defacing the side of any house or building or wall by fixing any placard or notice, or by any indecent or insulting writing or drawing thereon.

Idle and disorderly persons on second conviction, or resisting constables, and persons committing offences herein mentioned, to be deemed rogues and vagabonds.

4. Every person convicted a second time of being idle and disorderly, and every idle and disorderly person resisting any constable or police officer apprehending him, and every person committing any of the offences herein-after mentioned in this clause, shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance, and shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, or to a fine not exceeding two pounds:

1. Every person wilfully exposing his person in an indecent manner, or exhibiting any obscene print, picture, or other indecent exhibition, in any street, road, highway, or public place or elsewhere to the annoyance and disgust of others.
2. Every person wandering abroad, or placing himself in any public place, street, highway, court, or passage, and endeavouring by the exposure of any wounds, deformities, leprosy, or loathsome diseases, to obtain or gather alms.
3. Every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions for himself or others, of any nature or kind, under any false or fraudulent pretences.
4. Every person gaming, playing, or betting in any street, road, highway, or other open and public place, or in any tavern, shop, or place for the sale of spirits or liquor, or kept or used for the purpose of common or promiscuous gaming at cockfighting, or with any table, dice, cards, or other instrument for gaming at any game or pretended game of chance.
5. Every person having in his custody or possession any picklock, key, crowbar, jack, bit, or other implement, with intent unlawfully to break into any dwelling house, warehouse, coach-house, stable, or outbuilding, or being armed with any gun, pistol, sword, knife, bludgeon, or other offensive weapon, or having upon him any instrument, with intent to commit any unlawful act; and every such offensive weapon or instrument shall, on the conviction of such offender, become forfeited to the Crown.
6. Every person being found in or upon any dwelling house, warehouse, godown, stable, outhouse, or other building, or in any enclosed yard, garden, plantation, or compound, for any unlawful purpose, or not giving a satisfactory account of himself.
7. Every suspected person or reputed thief loitering or lurking about, or frequenting any river, canal, or navigable stream,

dock, or basin, or any bazaar, quay, wharf, or warehouse near or adjoining thereto, or any street, highway, or avenue leading thereto, or any street, highway, or place adjacent to, or in or about any vessel, dhoney, boat, or other craft in any harbour, river, canal, or other water, with intent to commit any robbery, theft, or unlawful act.

Persons convicted a third time of being idle and disorderly, or a second time of being rogues and vagabonds, and persons escaping from place of confinement, to be deemed incorrigible rogues.

5. Every person convicted a third time or more often of being idle and disorderly, or a second time or more often of being a rogue and vagabond, and every person escaping out of any place of legal confinement before the expiration of the term for which he shall have been committed under this Ordinance, shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable to imprisonment at hard labour for any period not exceeding four months, and to corporal punishment not exceeding twenty-five lashes.

Incorrigible rogue may be required to give security for future good behaviour.

6. Every person convicted as an incorrigible rogue may, in addition to any punishment imposed by the preceding clause, be required also to give security for his good behaviour for one year after his discharge, and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months.

Headman and peace officers to apprehend offenders.

7. It shall be lawful for any principal or other headman, constable, or peace officer, duly appointed by or under authority from the Governor, to apprehend or cause to be apprehended any person behaving in a riotous or disorderly manner in the public streets, or any idle and disorderly person, or any rogue and vagabond, or any incorrigible rogue, or any person accused of any robbery, theft, assault, or other crime, and forthwith to take or send him, with a report stating the date of and reason for the arrest, and all that has been done upon the occasion, before the district court of the place wherein he shall be apprehended, and to search his house if charged with theft or other crime; and in case any such principal or other headman, constable, or peace officer shall, without just cause, delay, refuse, or wilfully neglect to take such offender into his custody, and to take or send him with such report before the district court, or to search his house as aforesaid, or shall not use his best endeavours so to do, it shall be deemed a neglect of duty and be punished as herein-after directed.

Headmen and peace officers to seize property of offenders.

Property of offenders available for expenses.

8. It shall be lawful for any principal or other headman, constable, or peace officer aforesaid, apprehending any person charged with being a rogue and vagabond, or incorrigible rogue, or accused of any robbery, theft, or crime, to search such offender, and inspect his boxes, bundles, parcels, or packages, and to take or send with his report any goods or property found in his possession to the district court; and any money which may be then found with or upon any rogue and vagabond or incorrigible rogue so apprehended shall, at the discretion of the district court, be ordered to be paid and applied for and towards payment of any fine imposed on him, and the expense of apprehending, conveying to gaol, and maintaining such offender during the time for which he shall have been in custody and committed to prison; and if upon search money sufficient for the purposes aforesaid be not

found, it shall be lawful for such court to order that a part, or if necessary the whole, of his effects found on or belonging to him shall be sold, and the produce of such sale be paid and applied as aforesaid; and the overplus of such money or effects, after deducting the charges of such sale, shall be returned to the said offender on his discharge.

Officers may enter taverns during day to search for offenders without warrant.

9. It shall be lawful for any principal or other headman, constable, or other peace officer aforesaid, to enter into any tavern or shop or place for the sale of spirits or liquor, during the hours which the same are allowed by law to be kept open, to search for and apprehend any person herein-before described to be an idle and disorderly person, or rogue and vagabond, or incorrigible rogue, or any person suspected or accused of any offence; and the district court, upon information on oath that any person so offending is, or is reasonably suspected to be, harboured or concealed in any shop or place for the sale of spirits or liquor, after the hours during which it is required by law to be closed, or in any house kept for the reception, lodging, or entertainment of travellers, or other building, boutique, outhouse, or premises, shall grant a warrant to enter at any time therein, and to apprehend and bring before such court every such idle and disorderly person, rogue and vagabond, or incorrigible rogue, or person suspected or accused of any offence, as shall be found therein.

Search warrant when to be granted.

All persons to aid headmen and peace officers.

10. It shall be lawful for any principal or other headman, constable, or other peace officer aforesaid to call upon, in the name of Her Majesty, every headman, constable, or other peace officer, and every inhabitant of his own or any neighbouring village, to aid and assist him in the execution of his duty in anything required of him by this Ordinance; and if any such headman, constable, or other peace officer, or any inhabitant, shall, when so called upon, without just cause, delay, refuse, or neglect to aid and assist in any arrest, seizure, or search required by this Ordinance, or in the securing, detention, or removal before the district court of the offender or property seized, he shall be liable, on conviction, for every such offence to a fine not exceeding one pound, or to imprisonment not exceeding fourteen days: Provided always, that whenever any person shall be required as aforesaid to go beyond a distance of five miles, he shall be entitled to receive batta or hire from Government according to the rates payable in the fiscal's department.

Officers neglecting their duty.

11. In case any principal or other headman, constable, or other peace officer aforesaid, shall neglect his duty in anything required of him by this Ordinance, he shall be liable for every such offence to a fine not exceeding five pounds, or to imprisonment not exceeding two calendar months, with or without hard labour, at the discretion of the court.

Persons obstructing officers.

12. In case any person shall hinder, disturb, or molest any principal or other headman, constable, or other peace officer in the execution of this Ordinance, or shall be aiding, abetting, or assisting therein, or shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any rogue and vagabond, and shall be thereof convicted, every such offender shall, for every such offence, be liable to a fine not

exceeding three pounds, or to imprisonment, with or without hard labour, for any period not exceeding four months; and every person who shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any incorrigible rogue, shall be liable to a fine not exceeding five pounds, or to imprisonment for any period not exceeding six months, with or without hard labour.

During what hours taverns to be kept open.

13. Keepers of taverns or other shops or places for the retail of spirits or other liquors who shall suffer the said taverns or other shops or places to be kept open, or shall sell spirits or other liquors at any time before the hours of five in the morning or after nine in the evening, shall be liable to a penalty of five pounds; and all keepers of taverns or other shops or places for the retail of spirits or other liquors, and their agents, servants, or other persons having at the time the care or management of such taverns, shops, or places, who shall permit any person to be guilty of disorderly conduct in the said tavern, shop, or place aforesaid, and every person who shall be guilty of noisy or disorderly conduct in or about such tavern, shop, or place aforesaid, shall upon conviction be fined in a sum not exceeding twenty shillings.

Disorderly conduct in taverns.

Tavern keepers receiving pledge.

14. If any keeper of any tavern or other shop or place for the retail of spirits or other liquors shall take or receive in payment as a pledge or in barter or exchange for any spirits or liquor or other entertainment supplied in or from the said tavern, shop, or place, anything excepting money commonly current in this island, he shall be liable to a penalty not exceeding one pound for every such offence, and every such pledge, barter, or exchange shall also be illegal and void.

Or violating conditions of licence.

15. If any keeper of any tavern, shop, or place for the retail of spirits or other liquors shall in any respect commit any breach or offence against the conditions of his licence, he shall be liable to be adjudged in a summary manner to pay the penalty incurred thereunder.

Gaming in taverns, how punished for first offence.

16. All keepers of taverns or other shops or places for the retail of spirits or other liquors who shall wilfully permit or countenance in or about the same, or in any shed or other building, compound, garden, or land adjoining or near thereto, and occupied by or belonging to the keeper of such tavern, shop, or place, any playing, betting, or gaming at cock-fighting, or with any table, dice, cards, or other instruments for gaming, at any game or pretended game of chance, and every person who shall be a party to any such playing, betting, or gaming, or in any way in transgressing or neglecting the provisions of this clause, shall on the first conviction thereof forfeit and pay any sum not exceeding the sum of two pounds.

Subsequent offences.

17. All keepers of taverns or other shops or places for the retail of spirits or other liquors who shall permit or countenance therein any playing, betting, or gaming in any manner described or mentioned in the preceding clause, on being so convicted thereof twice or more frequently, shall be deemed and taken to be at the time of such second or subsequent offence a keeper, holder, occupier, or user of a house or place for the purpose of common or

promiscuous gambling within the meaning and intent of this Ordinance, and shall be punishable as herein-after provided.

Government rest houses excepted.

18. None of the provisions of the five preceding clauses shall extend to the rest houses belonging to Government.

Keepers of common gaming houses, how punished for first offence.

19. All persons who shall keep, hold, occupy, or use any house or other place, open or enclosed, for the purpose of common or promiscuous gaming, playing, or betting at cock-fighting, or with any table, dice, cards, or other instrument for gaming, at any game or pretended game of chance, shall, upon the first conviction thereof, suffer imprisonment at hard labour for a period of six months, and shall forfeit and pay the sum of five pounds, and

Subsequent offences.

shall upon the second and every subsequent conviction suffer imprisonment at hard labour for a period of twelve months, and shall forfeit and pay the sum of ten pounds.

Any person acting as master of any gambling house to be deemed the keeper thereof.

20. Any person other than the real owner, keeper, or occupier of any such house or other place mentioned in the four preceding clauses who shall at any time hereafter act or behave as master, or as having the care or management thereof, shall be deemed and taken to be a keeper, holder, or user thereof within the meaning and intent of this Ordinance, and shall be equally liable to be prosecuted and punished in the manner and to the effect aforesaid as the real owner, keeper, or occupier thereof would be.

Fines to be levied by distress.

21. All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender, and in default of payment every such offender shall be imprisoned at hard labour for the space of one month for every pound of such fine which shall remain unsatisfied, and in like proportion for every lesser sum, provided that such imprisonment on any one conviction shall never exceed the term of twelve months, and it shall also be lawful for any court before whom any such offender may be convicted to order, at its discretion, the whole or any part of such fine or penalty, when recovered, to be paid over or applied

Informer's share.

to the use and benefit of the persons who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

No prosecution to be instituted after one month.

22. No prosecution shall be instituted against any person for offences under the provisions of this Ordinance after the expiration of one calendar month next subsequent to the date of the offence.

Construction of terms.

23. Whenever in this Ordinance any word or words used in this Ordinance is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

24. Has had its effect.

6th September 1841.

43.

Ordinance No. 9 of 1841.

To repeal the ninth clause of the Ordinance No. 12 of 1840, and to re-enact certain of its provisions.

Whereas it is expedient to repeal the ninth clause of the Ordinance No. 12 of 1840, entitled "To prevent encroachments upon "Crown lands;" Preamble.

1. Repealing clause.

2. None of the provisions contained in the eighth clause, nor the provision touching prescription contained in the first clause of the said Ordinance No. 12 of 1840, shall extend to any land referred to in the sixth clause thereof, nor to any public road, street, or highway, nor to any land known or held as toonhawul land. Eighth clause and part of the first clause of Ordinance No. 12 of 1840, not to extend to any land referred to in the sixth clause thereof.

12th October 1841.

44.

Ordinance No. 1 of 1842.

To make certain regulations respecting the granting of Schedules on occasion of the Execution of Deeds affecting Land in the Northern Province.

Whereas a custom exists in some parts of the Northern Province for the headmen, upon application to them, to give certain certificates and extracts from the thombos, commonly called schedules, on occasion of the intended execution of any deed affecting land, for which they receive certain fees: And whereas there is much vexatious delay on the part of the headmen in performing what by this custom is required of them, and many attempts are made to exact exorbitant fees, and it is necessary to make provision for the prevention of these delays and undue exactions: Preamble.

1. Every headman shall be entitled to receive for every such schedule which he shall grant to any party applying for the same a fee of two per cent. on the value of the land for which it is granted; provided always, that such fee shall never be less than one shilling and sixpence nor more than five pounds, and that it shall not be considered due until after the schedule has been delivered, and until after every such act in relation thereto which by custom the headman is bound to perform has been performed. Fee payable to headman on granting of schedule.

2. It shall be lawful for a headman to refuse to grant a schedule to any party applying for the same whom he shall have reason- Headman refusing to grant schedule to give

reasons in writing for such refusal.

able grounds for believing not to be entitled thereto; provided always, that he shall forthwith give to such party a statement in writing of the ground of such refusal.

Penalties on headman for negligence or misconduct.

3. Any headman who shall neglect or delay to attend to any proper application that shall be made to him for a schedule, or who shall unnecessarily protract the granting of it, or the performance of any act in relation thereto which by custom he is bound to perform, and any headman who shall unnecessarily delay the giving of the statement required by the second clause to be given, under the circumstances therein stated, to the applicant for a schedule, and any headman who shall demand or receive a greater fee for granting a schedule than is by this Ordinance allowed, shall be liable to a fine according to the discretion of the court not exceeding five pounds, to be recovered from him by distress, and in default of payment to imprisonment not exceeding one month.

4. Has had its effect.

1st August 1842.

45.

ORDINANCE No. 2 OF 1842.

An Ordinance to amend the Law respecting the Concealment of the Birth of Children.

Preamble.

WHEREAS it is expedient to repeal the Ordinance No. 9 of 1823, and to make fuller provision in lieu thereof, for the punishment of women concealing the birth of their children:

1. Repealing clause.

Punishment of woman endeavouring to conceal the birth of her child.

2. From and after the passing of this Ordinance, if any woman shall be delivered of a child, and shall, by secret burying or otherwise disposing of the dead body of the said child, endeavour to conceal the birth thereof, every such woman shall be guilty of an offence, and shall, on conviction thereof, be liable to imprisonment, with or without hard labour, for any term not exceeding two years; and it shall not be necessary to prove whether the child died before, at, or after its birth: Provided always, that if any woman tried for the murder of her child shall be acquitted thereof, it shall be lawful for the jury by whose verdict she shall be acquitted to find, in case it shall so appear in evidence, that she was delivered of a child, and that she did by secret burying, or otherwise disposing of the dead body of such child, endeavour to conceal the birth thereof; and thereupon the court may pass the same sentence as if she had been convicted upon an information for the concealment of the birth.

Proviso that jury may find a woman charged with child murder guilty of concealment of birth.

1st August 1842.

46.

ORDINANCE No. 3 OF 1842.

For the substitution of solemn Affirmations in lieu of Oaths in certain cases.

WHEREAS it is expedient to substitute a solemn affirmation in lieu of every oath hitherto required to be taken by persons professing other than the Christian religion, and by Quakers, Moravians, and Jews: And whereas the provisions of the Ordinance No. 6 of 1841 are not sufficiently extensive for that purpose : Preamble.

1. Repealing clause.

2. Every individual not professing the Christian faith, and every Quaker, Moravian, or Jew, shall, on all occasions whatsoever where an oath is required by the existing or by any other law hereafter to be made, make a solemn affirmation or declaration in lieu thereof, and every such affirmation or declaration shall be of the same force and effect as an oath taken in the usual form, anything in the Ordinance No. 6 of 1834, entitled an "Ordinance "declaring English rules of evidence to be in force in this "island, unless in cases otherwise expressly provided for by law ; "and prescribing the course by which evidence is to be obtained "in certain cases," to the contrary notwithstanding : Provided always, that every such affirmation or declaration shall commence with the following words, or words to that effect, "I, *A.B.*, do "solemnly, sincerely, and truly declare and affirm." Solemn affirmations to be substituted for oaths. Form of affirmation.

3. If any person making such affirmation or declaration as aforesaid shall wilfully and falsely state any matter or thing which, if the same had been stated on oath in the usual form before the passing of this Ordinance, would have amounted to perjury, every such person shall be subject to the same punishment to which persons convicted of perjury were subject before the passing of this Ordinance ; provided nevertheless, that in all prosecutions for false affirmation, the testimony of two witnesses at least to the very fact as to which the person or persons accused are alleged to have affirmed falsely, shall be necessary for the conviction of such person or persons, unless such person or persons shall have freely and voluntarily confessed the offence charged, or shall plead guilty to the same in open court, or unless the oath or solemn affirmation of one witness to the very fact be supported by the production of documentary evidence inconsistent with or contradictory to the affirmation of such person or persons. Penalty on making false declaration. Proviso.

4. Every person causing or procuring another to commit the offence defined in the preceding clause of this Ordinance, shall be subject to the same punishment to which persons convicted of subornation of perjury were subject before the passing of this Ordinance. Penalty on procuring others to make false declaration.

15th August 1842.

47.

ORDINANCE No. 4 OF 1842.

For the Protection of Her Majesty's rights in the digging for dead Chanks.

Preamble.

WHEREAS it is necessary to make provision for the more effectual protection of the deposits of chanks, called "dead chanks," in the Crown lands in the Northern Province:

Penalty for digging for dead chanks without permit.

1. From and after the passing of this Ordinance any person who shall dig for dead chanks in any land belonging to the Crown, without the permission in writing of the Government agent, or other person duly authorized by him in that behalf, or contrary to the terms of such permit, shall be liable to a penalty, for the first offence, not exceeding three pounds, and in default of payment to be imprisoned with or without hard labour for a term not exceeding three months; and for the second or any subsequent offence to a penalty not exceeding five pounds, and in default of payment to be imprisoned, with or without hard labour, for a term of five months.

Chanks, where to be stored, and not to be removed without permit.

2. The dead chanks obtained by digging in the Crown lands shall, on first being dug up, be taken to and kept only at such stores or places in the immediate neighbourhood of the lands whence the dead chanks were dug up, as may be approved of by the Government agent as places for storing such dead chanks, and that they shall not be thereafter removed from such stores or places without the permission in writing of the Government agent, or of some person duly authorized by him on that behalf; and that the taking or removal of dead chanks contrary to the provisions of this clause shall be an offence, and shall be punished by the confiscation of all dead chanks so taken or removed.

Penalty.

Fines, how to be disposed of.

3. One half of all fines herein-before directed to be levied, and one half of the produce of all confiscations under this Ordinance, shall go to our Lady the Queen, and the other half to the person in consequence of whose information the offender is convicted: Provided always, that in the event of the inability of any defendant to pay any such fine, and sentence of imprisonment being awarded for any such offence, the district judge shall nevertheless pay to such informer the amount to which he would have been entitled if such fine had been paid.

Proviso.

15th August 1842.

48.

ORDINANCE No. 5 OF 1842.

For the Protection of Her Majesty's Chank Fishery.

WHEREAS it is necessary to make provision for the protection of Her Majesty's chank fishery : Preamble.

1. From and after the passing of this Ordinance every boat, canoe, raft, or vessel whatsoever which shall be found employed in the fishing for, or in any way for the collection of chanks, without the written licence for its so being employed of the Government agent of the province on the coasts of which it shall be so found, or of some person duly authorized by him to grant such licences, or contrary to the terms thereof, shall, together with all its appurtenances, be confiscated, and every person found therein shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding one pound, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month.

Every boat, &c. found fishing for chanks without licence to be confiscated.

Persons found therein held guilty of an offence, and liable to fine or imprisonment.

2. All persons found fishing for or otherwise attempting to collect chanks, without a licence for that purpose from the Government agent of the province on the coast of which they shall be so found, or from some person duly authorized by him to grant such licence, or contrary to the terms thereof, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding one pound, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month.

Penalty on persons found fishing for or attempting to collect chanks without licence.

3. All chanks shall be landed at some place on the coasts of this colony within such time after their being fished up or otherwise collected as shall be stipulated in their licence, and every person failing so to land any chanks in the fishing or collection of which he shall have been employed, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding one pound, and in default of payment to imprisonment with or without hard labour, for a period not exceeding one month ; and every person procuring, instigating, or assisting another to commit the said last-mentioned offence shall be liable to the same punishment as a person actually committing it.

Chanks to be landed on the coasts of the colony within a stipulated period.

Penalty.

4. The possession of chanks at any place on the coasts of this island, other than a port of entry, without the permit of the Government agent of the province, or some person authorized by him to grant such permits, or contrary to the terms of any permit for such possession that may have been granted, shall be an offence, and all chanks found so possessed shall be confiscated.

Possession of chanks without permit an offence.

5. All headmen, officers of police or customs, and all persons specially appointed for that purpose by the Government agent, shall be and they are hereby empowered to demand of all persons fishing for or attempting to collect chanks, or having them in their possession, the production of any licence or permit required of them by this Ordinance ; and in case the same shall not be produced, or being produced shall not be deemed satisfactory, to seize and take such persons before the district court, and detain and in safe custody keep any boat, canoe, raft, or vessel employed,

Officers empowered to demand the production of licence.

Persons resisting such officers or inciting resistance, liable to fine and imprisonment.

or chanks possessed by them unlawfully, until they shall receive the directions of the said court for their disposal; and every person making or inciting any resistance to such officers or other persons in the exercise of their duty shall be liable to imprisonment with or without hard labour, or fine, or both, at the discretion of the district court.

Penalty for using a dredge or apparatus of a like nature.

6. No dredge or other apparatus for the purpose of collecting chanks shall be used, and that any such apparatus that may be found on board any boat, canoe, raft, or vessel, shall, together with such boat, canoe, raft, or vessel, be confiscated, and the tindal and crew of such boat, canoe, raft, or vessel shall be liable to imprisonment at hard labour for a period not exceeding three months.

Fines, how to be disposed of.

7. One half of all fines recovered and one half of the produce of all confiscations made under this Ordinance shall go to our Lady the Queen, and the other half to the person in consequence of whose information the offender is convicted: Provided always, that in the event of the inability of any defendant to pay the fines above directed, and sentence of imprisonment being awarded in consequence thereof, the agent of the province shall nevertheless pay to such informer the amount to which he would have been entitled if such fine had been paid.

Proviso.

29th August 1842.

49.

Ordinance No. 9 of 1842.

For the Prevention of Mischief by Dogs.

Preamble.

Whereas much mischief is occasioned by dogs in this colony, and it is expedient to make provision for the prevention thereof:

Governor empowered to issue orders for the destruction of dogs.

1. From and after the passing of this Ordinance it shall be lawful for the Governor to issue orders to such persons and at such times as he shall think fit to destroy or cause to be destroyed all dogs, not being led or carried, which shall be found within a certain period to be named in every such order, and in no case to exceed ten days, in any thoroughfare or public place within this colony, or within any part of it to which the Governor shall think proper to limit the extension of such order; provided nevertheless, that no such order shall be carried into execution until at least twenty-four hours notice therefore shall have been given by publishing the same in the Government Gazette, and also either by beat of tom-tom or in such other manner as may be most usual in the place within which such order shall be declared to be in force; and such notice shall specify the period during which and the limits within which such order is to be in force.

Proviso.

Person suffering dog to make his premises its usual place of resort to be held its owner.

2. Every person who shall knowingly suffer a dog to make his house or premises its ordinary place of resort, unless it shall notoriously belong to or be in the charge of some resident therein, shall be deemed and held to be the owner of such dog, so far as to be liable civilly and penally for all mischief done and all acts of nuisance committed by such dog while so resorting.

3. It shall be lawful for any person at any time to kill upon the spot any dog which shall ferociously fly at or attack him, and to pursue and kill any dog not being securely tied up or otherwise confined which he shall have reasonable ground to believe to be mad; and if the owner of any dog which has been bitten by any dog or other animal reasonably suspected to be in a rabid state shall permit the same to go at large, after being informed of its being in such a state, or knowing it to have been bitten by any dog or other animal in a rabid state, shall be guilty of an offence and liable to a penalty not exceeding three pounds, and in default of payment to imprisonment at hard labour for any term not exceeding three months.

Any person authorized to kill a ferocious dog attacking him, or a mad dog.

4. That upon any complaint being substantiated before a district court of any dog being dangerous, the district judge shall issue orders to the owner or owners thereof so to secure the same as to prevent all risk for the future of the danger complained of; and if, nevertheless, any subsequent complaint of a like nature shall be substantiated before the same or any other competent court in respect of the same dog, the judge thereof shall issue his order to such officer of police as he shall deem best able to execute the same for the destruction of such dog; and every officer of police receiving such order is hereby empowered and required to destroy such dog or cause it to be destroyed, and if necessary to pursue the same or cause it to be pursued into any house or premises within which it shall have taken shelter: Provided always, that if after any such subsequent complaint shall have been substantiated in respect of any dog, the owner thereof, or some person in his behalf, shall offer to pay immediately into court a fine of one pound, it shall be competent for the district judge, if he shall think fit, to accept such offer in lieu of issuing such order as aforesaid for the destruction of such dog.

District judge may direct any dog being proved to be dangerous to be secured by owner, and upon a second complaint to be destroyed.

Proviso.

5. In addition to every liability imposed upon the owner of a dog by this Ordinance on account of any mischief done by such dog, such owner shall be also liable to any action for damages in respect of the same mischief to which he would have been liable before the passing of this Ordinance.

Owner of mischievous dog to be liable civilly as well as penally.

6. No person authorized under this Ordinance to kill dogs shall be held justified in using means for that purpose which are calculated to endanger personal safety or to give unnecessary annoyance.

Persons authorized to kill dogs not to employ dangerous means.

15th September 1842.

50.

ORDINANCE No. 11 OF 1842.

An Ordinance to provide for a Church in Kandy.

WHEREAS several persons have, with the concurrence of the lord bishop of the diocese, subscribed certain sums of money for the purpose of erecting a church at Kandy, for the celebration of divine worship according to the rites of the United Church of

Preamble.

England and Ireland, and by some minister thereof duly appointed by Government: And whereas the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, has consented to grant from the public chest a sum equal to the amount of subscriptions paid up, provided that such sum shall not exceed the sum of 1,500*l.*: And whereas it is expedient to provide for the immediate appointment and continual succession of trustees for the direction of the building of the said church, according to such plan and specification as shall be agreed upon between His Excellency the Governor of this colony and the trustees:

Governor empowered to issue 1,500*l.* towards building the church.

Proviso.

1. It shall be lawful for the Governor by warrant under his hand to authorize the issue from the treasury of this colony of any sum or sums not exceeding in all 1,500*l.*, to be applied, under the direction of trustees to be appointed as herein-after provided, to the building of a church in Kandy; provided that no such issue shall be made until a moiety of the estimated costs thereof shall have been raised by subscription and lodged in the general treasury.

Three trustees to be elected by subscribers and three nominated by Governor.

2. Before any sum or sums of money shall be issued as aforesaid, the parties subscribing shall, by plurality of votes, elect from among themselves three persons to act as trustees; and such election shall take place at a meeting of the subscribers, of the time and place of holding which meeting fourteen days notice shall have been previously published in the Government Gazette; and upon intimation being given to the Governor of the election of such three persons as aforesaid, the said Governor shall thereupon nominate three other persons to act as trustees; and the real estate in the said church, and in all lands and hereditaments thereunto belonging, shall be thereupon conveyed to the said trustees so elected and nominated and their successors for ever, duly elected and nominated as herein-after provided, in trust for the purposes of the said church.

Committee of management to hand over papers, &c. to trustees.

3. And whereas a provisional committee of management for the purposes of the said church was appointed at a certain general meeting of the subscribers to the said church held at the Kandy Library on the 27th January 1841; it is therefore enacted, that upon the election and nomination of trustees as aforesaid the said provisional committee shall deliver over to the said trustees all deeds, books, plans, papers, and vouchers relating to the said church in their custody or power, and all and any sums of money, donations, or subscriptions, given or subscribed for the purpose aforesaid, in their possession or control, and the said committee of management, and the office and duties thereof, shall thereupon cease and determine.

Trustees to be elected annually.

4. The said trustees so elected and nominated as aforesaid shall continue to be and to act as trustees until the last Monday in the month of January one thousand eight hundred and forty-four; and upon such day such trustees shall cease to have any power or authority so to act; and three persons shall be elected at a general meeting to be held on that day, and three other persons shall be nominated by the Governor as soon as convenient thereafter, to be the trustees of the said church for the year im-

mediately ensuing; and a fresh election and nomination of trustees shall in like manner take place upon every last Monday of the month of January thereafter, and copies of the minutes of every election or nomination of a trustee which shall take place under the provisions of any clause in this Ordinance shall be transmitted without delay to the colonial secretary and the registrar of the bishop of the diocese: Provided always, that no person shall be elected a trustee at any general meeting before the completion of the said church who shall not have paid up a subscription thereto of at least five pounds, or after its completion who shall not be a renter of at least three sittings therein; nor any person who shall not be a member of the United Church of England and Ireland.

Proviso.

5. The colonial chaplain for the time being duly appointed to the said church, or during his absence the clergyman duly appointed to officiate for him, shall at all times be ex officio chairman of the trustees, but shall not have the power of voting by reason of being such chairman, except in cases where the votes of the trustees present shall be equal.

Colonial chaplain to be ex officio chairman of trustees.

6. Whenever any trustee shall die, or shall resign, or shall leave the colony, then, in case such trustee shall have been originally elected at a general meeting, his vacancy shall be filled by some other person duly qualified in like manner as such trustee, to be elected at a general meeting to be called for that purpose as soon as may be convenient by the continuing trustees, or the major part of them; and in case such trustee shall have been originally nominated by the Governor, his vacancy shall be filled as soon as may be convenient by some other person duly qualified, to be nominated in like manner: Provided always, that if such general meeting shall not be called within one month after the death, resignation, or departure of such trustee from the colony, it shall be lawful for the Governor to nominate some person duly qualified as aforesaid to be a trustee.

Vacancies occasioned by death, resignation or removal of trustees, how to be filled.

Proviso.

7. The trustees for the time being duly nominated and elected as aforesaid, or the major part of them, are hereby authorized and required to set apart, as soon as conveniently may be after the completion of the said church, one-sixth part of the whole number of sittings therein, to be appropriated, free of any charge whatever, to the use and accommodation of the poorer classes of the population; and also one pew, containing not more than six sittings nor less than four, for the use and occupation, free from all charges, of the clergyman licensed to officiate in the said church; and the remaining sittings, after due provision shall have been made for the accommodation of the Governor and of the military, shall be assigned to the trustees for the time being and their successors for the purposes herein-after mentioned.

Sittings in church, how to be appropriated.

8. It shall and may be lawful for the trustees for the time being, or the major part of them, and they are hereby required so soon as such partition of the church shall have taken place as in the preceding clause mentioned, to assess and fix a rent or rate for each pew or sitting therein, with the exception of such pews or sittings as shall have been set apart and reserved as aforesaid,

Trustees to fix the rent of sittings annually.

and to make agreements and contracts with any person desirous to engage the same, according to such assessment; and such rate or rent shall be in force for one year from the time of the assessment thereof, and at the expiration of such year the trustees for the time being shall assess and fix a fresh rate or rent for the year immediately following; and a fresh assessment shall in like manner be made annually and every year; and the trustees for the time being shall be at all times empowered to make agreements and contracts in respect of any pew or sitting which shall be vacant: Provided always, that if it shall at any time appear to the trustees, or the major part of them, that such annual assessment will be insufficient to defray the several charges and costs necessary for affecting and providing all things required by this Ordinance, it shall and may be lawful for such trustees, or the major part of them, by ten days previous notice in writing affixed in some conspicuous place in the said church, to call a general meeting for the purpose of taking into consideration the expediency of amending and increasing such assessment; and if it shall appear to the majority of such meeting, not being fewer in number than twenty, that such assessment will not be sufficient to provide for all such necessary costs and charges, it shall and may be lawful for the said majority to substitute such higher assessment as by them shall be deemed sufficient to meet such costs and charges, and such higher rate shall thereupon become due and payable and shall continue to be charged and collected for the same period that the rate for which it is so substituted would otherwise have been in force.

Proviso.

Subscribers of 5*l.* to have priority of choice of sittings.

9. Every subscriber towards the building of the said church to the amount of not less than five pounds shall have a right in the first instance to become a renter of a pew or sitting in preference to any other person who shall not have so subscribed, and such subscribers shall, amongst themselves, have priority in the choice of pews or sittings, not exceeding six sittings, according to the amount of their subscriptions, the subscriber to the larger amount to have the prior choice, and the choice of subscribers to an equal amount to be determined, if need be, by lot.

Party having engaged a sitting not to be disturbed.

10. Any person having engaged any pew or sitting, and continuing to pay rent for the same according to the rate fixed, and also conducting himself or herself in the said church so as not wilfully or maliciously to disturb the performance of public worship, or to molest any part of the congregation attending the same, shall not be, under any pretence whatever, removed or rejected without his or her own consent from the occupation of such pew or sitting, at all times when the said church shall be open for the performance of public worship, the ministration of any sacrament, or other rite or ceremony, according to the use of the United Church of England and Ireland: Provided nevertheless, that if any person having engaged any pew or sittings in the said church under agreement to pay for the same, according to the rate or rent assessed thereupon, shall suffer such rent to fall into arrear, and to continue unpaid for three months after the same shall have been demanded by the trustees, or by any person empowered by them

Proviso.

or the major part of them, or if any person having engaged as aforesaid any such pew or sitting shall refuse to pay for the same such increased rate of rent as the trustees, according to the provisions herein-before described, shall have assessed and affixed, or if any person engaging and occupying any such pew or sittings, and continuing to pay the rent assessed upon the same, shall by any unsuitable noise, gesture, or deportment, wilfully and irreverently interrupt the celebration of public worship, or shall designedly and habitually disturb any part of the congregation within the said church, in all such cases it shall and may be lawful for the trustees to issue a monition to every such defaulter or offender, and in case such defaulter or offender shall not forthwith pay all such arrears, or shall not amend and desist from the practice so complained of, it shall be lawful for the said trustees to convene a general meeting, to whom it shall be competent to authorize the said trustees to declare such pew or sittings occupied by the party complained of to be vacant.

Trustees authorized to permit the erection of monuments and digging of vaults, with the previous consent of the bishop of the diocese.

11. It shall and may be lawful for the major part of the trustees, with the previous consent of the bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monuments to be erected or placed in such parts of the said church, or of the enclosed ground about the same, or of the burial ground belonging thereto, as they may deem convenient, or vaults to be dug and made in the said burial ground, upon payment to the said trustees for the use of the said church, for such permission, by the person or person desiring to erect or place any monument in the said church or enclosed ground about the same, or in the said burial ground, or to dig and make any vault in the said burial ground, of such charges as are contained and set forth in the schedule hereunto annexed, over and above the fees which may be legally demanded for burial; and it shall be lawful for any person or persons erecting or placing any monument in the said church or enclosed ground about the same, or digging or making any vault in the said burial ground, by and with such permission as aforesaid, to have and maintain and keep up such monument or vault, according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever.

Bodies not to be buried within or near the church.

12. It shall not be lawful to bury any body within the said church or within the enclosed ground about the same.

Trustees to collect all dues to the church, and to appropriate them in payment of salaries, repairs, &c.

13. It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required to collect and gather, or cause to be collected or gathered, all sums of money which shall be due for pews or sittings in the said church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments belonging to the said church, and all fees or payments for monuments or vaults, and to apply for the said sums and to sue for the recovery of the same from all persons who shall fail or refuse to pay the same; and the said trustees shall, out of the said sums so received or recovered, regularly pay the salaries allotted to all lay persons holding any

office in or about the said church, according to such rates and at such periods as shall be determined upon by the majority of the said trustees, and shall apply the surplus in such repairs and such improvement of the said church and premises as shall to them appear most expedient.

Actions to be brought by and against trustees.

14. It shall be lawful for the trustees for the time being, or the major part of them, to make or enter into, perform, and execute, and compel the performance and execution of all such contracts and agreements, matters, and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them, in the name of "the trustees of the church at Kandy" or "the trustees of " church at Kandy" (describing the same by its name, after it shall have been named at consecration), as the case may require, without specifying the christian or surnames of the trustees, and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits or actions, the cause of which shall rise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the said trustees under the name and title aforesaid.

Auditors to be elected annually.

15. One person, not being a trustee, shall be elected at a general meeting to be called by the trustees immediately after the completion of the building of the said church, to be an auditor of the accounts rendered by the trustees of the said building; and one other person, not being a trustee, shall be nominated by the Governor to be an auditor for the same purpose; and one person shall thereafter be elected at a general meeting on the second Monday in every January to be an auditor of the yearly accounts of the said trustees, and one other person, not being a trustee, shall be thereupon nominated by the Governor to be an auditor for the same purpose and during the same period.

Trustees to keep annual accounts, and to submit them, with auditors report, at a general meeting every year.

16. The trustees shall keep an account wherein they shall enter all moneys received and paid by them under and by virtue of the provisions of this Ordinance, which account the auditors, or either of them, may inspect at all reasonable times; and the said account, together with any report of the auditors or either of them thereon, shall be laid before the general annual meetings to be held on the last Monday of the month of January, and the said accounts shall be thereupon published in the Government Gazette.

Trustees to call a general meeting upon receiving a requisition signed by twenty subscribers or

17. It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required, to call a general meeting of the subscribers or renters of sittings, as the case may be, within twelve days after receiving any requisition in writing to that effect, signed by not less than twenty of such subscribers or renters; and ten days notice of the time and place of holding such general meeting shall be affixed in some conspicuous part of

the said church, when completed, or until its completion in some conspicuous place or places within the town of Kandy. renters of sittings.

18. The right of voting at every general meeting, until the said church shall have been reported by the proper authority to be completed and fit for use, shall be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such general meeting, and that from and after such time as the said church shall have been so reported to be completed and fit for use, the right of voting shall be vested in renters of sittings in the said church who shall have duly paid up their rent: Provided always, that no such subscriber or renter of sittings shall on any occasion be allowed to give more than one vote. Who to vote at general meetings. Proviso.

19. No person shall be suffered to sing or say the common or open prayer, or to administer the sacraments, or to preach any sermon in the said church, except the colonial chaplain duly appointed to the said church, or some clergyman duly authorized to officiate for him. No person to read prayers or preach, except colonial chaplain or person officiating for him.

20. Every person who shall wilfully and maliciously, either within or from without the said church, disturb the performance of public worship therein, or in any way during such time molest any of the congregation, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding ten pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months. Penalty on disturbing congregation.

SCHEDULE.

Erecting a tablet or monument in the church, not less than five pounds nor more than twenty pounds.

Erecting a monument in the ground adjoining the church, not being the burial ground, any sum not less than three pounds nor more than ten pounds.

Burial in a brick or stone grave in the burial ground, one pound.

Headstone or footstone (each), ten shillings.

A stone covering over such grave, one pound.

A vault for each person it is capable of containing, one pound ten shillings.

A raised tomb over a vault for each person it is capable of containing, one pound ten shillings.

29th September 1842.

51.

No. 14 OF 1843.

For providing for the better Security and Recovery of Debts due to the Crown.

Preamble.

WHEREAS it is expedient to repeal the Ordinance No. 1 of 1843, and to make further provision in lieu thereof, as well for the security as for the recovery of all debts due to the Crown throughout this island and its dependencies :

1. Repealing clause.

Government agent to seize property of debtor upon knowledge or notice of debt.

2. It shall be lawful for any Government Agent or Assistant Government Agent (or other person duly authorized by writing signed by such Government Agent) within his province or district, and upon his own knowledge of the default of payment by any debtor to Her Majesty, or notice to him given of any debt having accrued due to Her Majesty, promptly and immediately to seize, take, and in safe custody to keep, but without removing the same (except in those cases only where there are no adequate means for safely and securely keeping the said property at the place where it is seized, and no sufficient security given for the value thereof), all and every the property of any debtor or debtors to the Crown, to an amount computed to be sufficient to cover the said debt so due and owing and the costs attending the same.

Notice, libel, or information to be filed in court.

3. Within seven days at farthest (exclusive of Sundays and other authorized public holidays) after such seizure as aforesaid, a libel or information setting forth the nature and amount of the debt so due to Her Majesty, shall be filed in any court having jurisdiction in the case, and every such court, upon any such libel or information being filed, together with the certificate of the property seized, signed by the person making the seizure, is hereby required to deliver to the Fiscal a warrant to sequester the property of the said debtor, and any further proceedings which may be had thereon shall be according to such general rules of practice as now are or hereafter may be framed by the judges of the Supreme Court.

Process thereupon.

Property of public accountant liable for debt, &c.

4. All lands and tenements which any Treasurer, Government Agent, Assistant Government Agent, Collector of Customs, Government farmer or renter, or other officer employed in the collection, charge, receipt, or expenditure of the revenue, public money, stores, or other property belonging to Government, or any other public accountant, now hath or at any time hereafter shall have, within the time during which he shall respectively remain accountable to Government, shall be liable for the payment of all arrearages or debts, and all fines, penalties, and forfeitures due or adjudged to Her Majesty, Her heirs and successors, by or from such officer or public accountant, and the said lands and tenements, and all other the goods, chattels, property, and effects of the said officer or public accountant, shall be seized and sold in execution for the payment of all such arrearages or debts, fines, penalties, or forfeitures as may be adjudged due and payable to Her Majesty, Her heirs and successors, by any competent court of law, in like and as large and beneficial a manner, to all intents and purposes, as if the said

officer or public accountant had, the day he became first an officer or accountant as aforesaid, specially mortgaged the said lands and tenements to Her Majesty, Her heirs and successors, for the full payment of such arrearages or debts, fines, penalties, and forfeitures, and had also at the same time, by a notarial bond, acknowledged the said arrearages or debts, fines, penalties, and forfeitures to be due to Her Majesty, Her heirs and successors.

Crown debts on mortgage, &c. preferred to all subsequent debts.

5. All debts due to Her Majesty, Her heirs and successors, upon mortgage, judgment, award, bond, or other specialty, or upon simple contract, from any other persons than officers and public accountants mentioned in the preceding clause, shall be entitled from the accruing thereof respectively to a preference of payment over all specialties or other debts which shall, subsequent to such date, have been contracted by or become due from such Crown debtors to any other person or persons whatsoever.

Previous mortgage of immoveable property not affected.

6. This Ordinance, or anything therein contained, shall not extend to, or affect the right of any person or persons or body corporate who has or have any special mortgage or hypothecation of any land or other immoveable property of a prior date to the claim of the Crown, and duly executed before a notary public or other person appointed by Government for the passing of deeds or other instruments, or to affect the right of any person or persons or body corporate who has or have a legal lien, mortgage, or privilege which is entitled to preference over any such prior special mortgage or hypothecation as aforesaid of immoveable property, according to the Roman Dutch law as now administered in the maritime districts of this island, anything before mentioned to the contrary thereof notwithstanding.

Nor previous transfer of moveable property.

7. No sale, pledge, transfer, or alienation of any goods, chattels, or other moveable property, upon good consideration and *bonâ fide* to any person or persons or body corporate, prior to the date of the execution of the Crown upon any judgment or award of any debt, fine, penalty, or forfeiture, being due and payable to it, shall be invalidated by anything contained in this Ordinance to the contrary notwithstanding.

Fraudulent transfer, &c. void.

8. All gifts, grants, sales, transfers, mortgages, bonds, suits, judgments, and executions, as well of lands and tenements as of goods and chattels, of any debtors to Her Majesty, Her heirs or successors, which have been or shall at any time hereafter be contrived, executed, had, or made by fraud, covin, collusion, or guile, to the end, purpose, and intent to delay, hinder, or defraud Her Majesty, Her heirs or successors, of her or their just and lawful action, suit, debts, accounts, damages, penalties, or forfeitures, shall be from henceforth deemed and taken to be utterly void and of none effect; and any party or parties thereto, knowing of such fraud, covin, collusion or guile, shall be guilty of an offence, and be liable, on conviction thereof, to a fine of the amount of one year's value of such lands or tenements, and the whole value of the said goods or chattels, as well as the consideration given for the same, and to imprisonment, with or without hard labour, for any period not exceeding one year.

Penalty.

9. Has had its effect.

8th November 1843.

52.

No. 18 of 1843.

To declare illegal the Possession of certain Nets and Instruments within certain limits.

Preamble.

WHEREAS it is expedient to prohibit the possession, within certain limits, of certain nets and instruments which might otherwise be used to the detriment of Her Majesty's pearl banks:

Possession of certain nets, dredges, and other instruments within certain limits illegal.

1. The posession on land of any drifting net or other net, not being such as are used by men walking in the sea, or of any dredge or similar instrument, at any place within twelve miles of Tallaville or Talmanar, or at any place within twelve miles of any part of the shore at low-water mark between Tallaville and Talmanar, shall be unlawful, and every such net, dredge, or instrument that shall at any time be found within such limits shall be forfeited; and

Penalty.

every person who shall at any time have had any such net, dredge, or instrument in his possession, or shall have moved or concealed, or assisted in or procured the movement or concealment of any such net, dredge, or instrument within such limits, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Peace officers may make search for such nets, &c., and seize offenders.

2. It shall be lawful for every officer of the customs, and every peace officer, to search any house or premises within any such limits as aforesaid where he shall have good reason to believe any such net, dredge, or instrument as aforesaid to be kept or concealed, and to take the same into his charge, and to seize and take every person offending against this Ordinance before any competent court or justice of the peace, to be dealt with according to law.

30th November 1843.

53.

No. 1 of 1844.

To make provision for the more easily ascertaining the Boundaries of the several Landed Estates possessed by Her Majesty's subjects within this colony.

Preamble.

WHEREAS much inconvenience is experienced from the want of any defined boundaries or landmarks of the several estates possessed by Her Majesty's subjects within this colony, and it is expedient to provide a remedy for the same: And whereas by the seventh clause of the Ordinance No. 12 of 1840 it is enacted, that the Government Agent of any province may, with the consent of the Governor, grant to any person possessing land within the province a certificate of the Crown having no claim to such land, and it appears that the provision to that effect may conveniently be extended:

Lands (Boundaries).

1. It shall at any time be lawful for the Government Agent of the province to demand in writing of any person claiming to be the owner of any land within the same the production of every deed, document, and instrument upon which such person founds such claim: And if the occupier or person having the superintendence or management of any such land, not being himself the alleged owner thereof, shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by the Government Agent, or if such alleged owner shall refuse to produce to the Government Agent, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land, and which shall be in his possession, or if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform the Government Agent, upon application, in whose possession they are, or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by the Government Agent, every such occupier, superintendent or manager, alleged owner, and person so refusing shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds.

Government agent may demand production of title deeds.

Penalty on refusal.

2. If it shall appear that the person claiming to be the owner of any land is not in possession of any deed, document, or instrument in support of such claim, or if there shall not be attached or belonging to such deed, document, or instrument a correct and authenticated survey of the land claimed by virtue of such deed, document, or instrument, it shall be lawful for the Government Agent of the province, if he shall see fit so to do, wherein such land shall be situated, to cause a survey thereof to be made, and to recover the costs thereof from such claimant, and such Government Agent shall forthwith proceed to grant to such claimant a certificate of the Crown having no claim to such land, in manner provided by the seventh clause of the Ordinance No. 12 of 1840.

Where no survey, Government agent may order one to be made.

3. From and after the passing of this Ordinance, no person shall be liable to any action for trespass for any entry upon any land within this colony, or to any action for damages in respect of any injury done to the same, if the title to such land shall be founded on any grant from the Crown, or if the person claiming to be the owner thereof shall have attached or belonging to the deed, document, or instrument by virtue of which he claims such land, a correct and authenticated survey thereof, or shall at any time have received a certificate that the Crown has no claim upon such land, unless the boundaries of such land shall be clearly defined along their whole line, or at such intervals as shall accurately show their whole line, by some wall, bank, ditch, fence, posts, stones, or other sufficient landmarks or boundary, unless such trespass or injury shall have been wilfully committed.

Trespassers, unless wilful, not liable.

4. If the Crown shall have heretofore granted, or shall hereafter grant, any land which shall have been previously granted by the Crown to any party, or which shall be possessed by any

Where party has had possession for three

years of land erroneously granted by the Crown.

subject of the Crown in manner provided by the preceding clause of this Ordinance, and the boundaries whereof shall not have been or shall not be clearly defined in the manner provided by the said clause at the time of making such erroneous grant, and if the party to whom any such erroneous grant shall have been made shall have entered upon such land, and shall have clearly defined the boundaries thereof as aforesaid, and remained in undisturbed possession thereof for the space of three years subsequent to the passing of this Ordinance, and shall have cultivated or improved the same, the party so in possession shall be entitled to retain the land so cultivated and improved upon payment to the party having a title to the same under the original grant from the Crown, or under any other good and sufficient title, of the value of such land at the time such erroneous grant shall have been made (which value shall be determined, if necessary, by arbitration in manner herein-after provided): And upon such payment being made to such party, and in consideration thereof, such party is hereby required to execute a good and valid transfer of such land to the party so in possession thereof as aforesaid, and his heirs, upon application by and at the sole cost of the said party so in possession; and the said party so in possession shall be entitled to recover from the Crown the amount paid to the Crown in respect of such erroneous grant.

Where less than three years.

5. If the Crown shall have heretofore granted, or shall hereafter grant, any land which shall have been previously granted by the Crown to any party, or which shall be possessed by any subject of the Crown in manner provided by the third clause of this Ordinance, and the boundaries whereof shall not have been or shall not be clearly defined in the manner provided by the said clause at the time of making such erroneous grant, and if the party to whom such erroneous grant shall have been made shall have entered upon such land, and clearly defined the boundaries thereof, and shall have cultivated or improved the same, but shall not have remained in undisturbed possession thereof for the space of three years subsequent to the passing of this Ordinance, then the first grantee or proprietor shall not be entitled to enter upon and take possession of the land so cultivated or improved except upon payment to the cultivator or improver thereof of three-fourths of the improved value of such land, less the value of such land in its uncultivated state, such last-mentioned value to be taken to be the same as that of similar land adjoining; and such questions of value shall be determined by arbitration in manner herein-after provided; and the party having so cultivated or improved the same shall be entitled to recover from the Crown the amount paid to the Crown by such party in respect of such erroneous grant:

Proviso.

Provided always, that if the first grantee or proprietor of such land shall decline to enter into possession of the land so cultivated or improved, he shall be entitled to recover from the cultivator or improver thereof the value of the land, and one-fourth of the value of the cultivation or improvements thereupon, such value to be determined by arbitration in manner herein-after provided; and

upon payment of such amount the said first grantee or proprietor shall, upon application by and at the cost of the party having cultivated or improved such land, execute a good and valid transfer thereof to such party and his heirs; and the said last-mentioned party shall be entitled to recover from the Crown the amount paid to the Crown in respect of such erroneous grant: And provided further, that if it shall appear that the party having claim to such land under such first grant from the Crown, or under any other good and valid title, had full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party cultivating or improving the same that such land was the property of the party having such claim as aforesaid, then the party so having cultivated or improved the same shall be entitled to retain possession of such land upon the same terms and in such and the like manner as is declared in the preceding clause of this Ordinance in respect of parties who shall have cultivated or improved land erroneously granted to them by the Crown and shall have remained in undisturbed possession of the same for the space of three years subsequent to the passing of this Ordnance.

Where party has had possession for not less than two nor more than five years of uncultivated land belonging to another.

6. If any person shall without fraud and in perfect good faith enter upon any uncultivated land which shall be the property of any of Her Majesty's subjects, the boundaries of which shall not be clearly defined as aforesaid, and shall cultivate or improve the same, and shall remain in undisturbed possession thereof for any period not less than two nor more than five years, the proprietor of such land so cultivated or improved shall not be entitled to enter upon or take possession of the same, unless upon payment to the party by whom it shall have been so cultivated or improved of three-fourths of the improved value of such land, less the value of such land in its uncultivated state, such last-mentioned value to be taken to be the same as that of similar land in the neighbourhood; and such questions of value shall be determined by arbitration in manner herein-after provided: Provided always, that it shall be lawful for such proprietor, if he shall think fit, to recover from the party having cultivated or improved such land one-fourth of the value of the land, and one-fourth of the value of the cultivation or improvements thereupon, and upon payment of such amount to such proprietor such proprietor shall, on application at the cost of the party so having cultivated or improved such land, execute a good and valid transfer thereof to such party and his heirs; and provided further, that if it shall appear that the proprietor of such land had full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party so cultivating or improving the same that such land was his property, such proprietor shall not be entitled to re-enter upon such land, except upon payment to the party having cultivated or improved the same of the full improved value of such land, less the value thereof in its uncultivated state; and such questions of value shall be determined by arbitration in manner herein-after provided.

Proviso.

Where more than five years.

7. If any person shall without fraud and in perfect good faith enter upon any uncultivated land which be the property of any of Her Majesty's subjects, the boundaries of which shall not be clearly defined as aforesaid, and shall cultivate or improve the same, and shall remain in undisturbed possession thereof for upwards of five years, the proprietor of such land shall not be entitled to enter upon and take possession of such land so cultivated or improved, unless upon payment to the party having cultivated or improved the same of the full improved value thereof, less the value of the land in its uncultivated state, which last-mentioned value shall be deemed and taken to be the same as that of similar land in the neighbourhood; and such questions of value shall be determined, if necessary, by arbitration in manner herein-after provided: Provided nevertheless, that such proprietor shall, if he elect so to do, have full power and authority to claim and recover from the party having cultivated or improved such land the value of such land in its uncultivated state, such value to be taken to be the same as that of similar land in the neighbourhood at the time of valuation, and to be determined, if necessary, by arbitration in manner herein-after provided; and upon payment of such amount to such proprietor, and in consideration thereof, such proprietor is hereby required to execute a good and valid transfer thereof to the party having cultivated or improved the same, and his heirs, the costs of such transfer to be borne by such party: And provided further, that if it shall appear that the proprietor of such land had, at any time within such five years, full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party cultivating or improving the same that such land was his property, then it shall be competent to such party, upon payment to such proprietor of the value of such land when first entered upon by such party (such value to be determined if necessary by arbitration in manner herein-after provided), to call upon such proprietor, and such proprietor is hereby required to execute a good and valid transfer thereof to such party and his heirs, at the cost of such party.

Proviso.

Proprietors of adjoining lands may call upon each other to define boundaries.

8. It shall be lawful for any subject of the Crown possessed of land in manner provided by the third clause of this Ordinance, the boundaries of which shall not be clearly defined as aforesaid, or any agent on his behalf, to call upon the proprietor or occupant of any land adjoining thereunto, not being Her Majesty, Her heirs or successors, or upon his agent, by notice in writing under the hand of such possessor, to be served personally on such last-mentioned proprietor, occupant, or agent, or in the event of their absence from the colony, or of their not being known, by affixing the same for the space of one month on some conspicuous place in every Cutcherry and Court house within the district in which such land shall be situated, and upon the land itself, to cause one half of such boundary to be made or renewed as shall require to be made or renewed, except where the liability of making or renewing such boundary or any part thereof, shall by any law, custom, or agree-

ment be otherwise determined; and if the making or renewal of such boundary shall not be commenced within thirty days after the service of such notice, and be diligently proceeded with, such first-mentioned possessor shall be entitled to cause such half of such boundary to be made or renewed, and to recover twice the amount of the costs necessarily incurred therein from the party failing to make or renew his share of such boundary: Provided always, that where the land of any of Her Majesty's subjects shall adjoin land belonging to Her Majesty, it shall be competent for the Government Agent or any Assistant Government Agent of the province in which such lands so adjoin, to call upon such subject, by notice to be served in manner provided in respect of the notice herein-before mentioned, to make or renew the whole of such boundary, or such part thereof as shall require to be made or renewed; and if the making or renewal of such boundary shall not be commenced within thirty days after the service of such notice, and diligently proceeded with, the said Government Agent or Assistant Government Agent shall be entitled to cause such boundary to be made or renewed, and to recover from such subject twice the amount of the costs necessarily incurred therein.

Where boundaries have been made and adjoining lands subsequently purchased.

9. If any subject of the Crown possessed of land in manner provided by the third clause of this Ordinance shall, after the passing of this Ordinance, clearly define the boundaries of his land as aforesaid before the lands immediately adjoining thereunto shall have been duly granted by the Crown, or otherwise held as private property, the owner of the land the boundaries of which shall have been so made shall be authorized to claim and recover from the person or persons who shall afterwards become the proprietor or proprietors of such adjoining lands one half of the actual value of the boundaries then existing between the said adjoining lands, and such value shall be determined, if necessary, by arbitration in manner herein-after provided as soon as is practicable after such adjoining land shall have been granted by the Crown, or otherwise held as private property as aforesaid.

Disputes to be referred to arbitration.

10. Wherever any question shall be left under the provisions of this Ordinance to be determined by arbitration, such arbitration shall be referred to two persons, one of whom shall be nominated by each of the parties, and the amount which shall be awarded under such arbitration shall, upon due proof and verification of such award before any competent court, be recovered in the same manner that such amount would have been recoverable if it had been decreed to be due by the judgment of such court: Provided always, that in case such two persons so nominated as aforesaid shall not agree in the amount of the sum to be paid within the space of one calendar month next after such reference shall be made to them, then and in such case the same shall be referred to the determination of such indifferent person as the said arbitrators by any writing under their hands shall nominate and appoint as umpire in the case, and the decision of such umpire shall be conclusive, and the amount awarded by him shall be recoverable in like manner as is herein-before provided in respect to the amount

Proviso.

awarded by the original referees: Provided also, that in case either of the parties in difference shall neglect or refuse, for the space of one calendar month after notice in writing given by the other party for that purpose, to join in the appointment of such arbitrators as aforesaid, it shall and may be lawful for the arbitrator to be chosen by the party giving such notice to nominate another arbitrator to act with him, and the award of such arbitrators, or if they shall not agree in an award, then the award of the umpire, whom they are hereby required to nominate in like manner as herein-before provided in respect of the umpire to be nominated by the original referees, shall be binding and conclusive, and the amount awarded under it be recoverable in like manner as if the party so neglecting or refusing had chosen an arbitrator who had actually joined and made an award therein.

Proviso.

11. In all cases where any dispute or difference shall arise between the respective owners, or persons legally possessed of such adjoining lands, as to the necessity or sufficiency of any boundary as aforesaid, then and in every such case the same shall be referred to arbitration in like manner, and shall be subject to the like award in manner herein-before provided, which award shall in like manner be binding and conclusive.

Surveyor General to inspect boundaries;

12. It shall be lawful for any person possessed of land in manner provided by the third clause of this Ordinance, who shall have made boundaries to the same, to call upon the Surveyor General to inspect such boundaries, or cause the same to be inspected by some proper person, and the Surveyor General is hereby authorized and required to inspect or cause the same to be so inspected, upon payment to him, or into his office, or into the office of the Government Agent of the province, at the rate of one shilling for every mile that the Surveyor General, or person authorized by him to make such inspection, shall have to travel to and from the land in respect of which inspection is applied for, and at the rate of twenty shillings for every mile of boundary that the Surveyor General or person as aforesaid shall be called upon to inspect; the extent of such boundary to be determined by the figure of survey attached to the title deed of the land, and the person so inspecting such boundaries shall report to the Surveyor General fully as to the nature thereof; and if it shall appear to the Surveyor General from such report, or from his own personal inspection, that such boundaries are sufficiently marked, and if the full and fair payment of the costs of travelling and inspection shall have been duly made, he shall sign and give to the party applying for the same a certificate to that effect; and such certificate shall express the period during which, in the opinion of the Surveyor General, such boundaries will continue sufficiently clear to indicate the land in respect of which they shall have been made, and during such period the boundaries of such land shall be deemed and taken to be sufficiently defined for the purposes of this Ordinance.

and to give certificate.

Ordinance not to affect property of

13. No person shall acquire any right under the provisions of this Ordinance in respect of the entry upon and cultivation of land

which shall be the property, sole or joint, of any person under twenty-one years of age, or of any insane person: And provided further, that no person shall be subject to the liabilities hereinbefore declared for the not making of a proper boundary to the land possessed by him if the making thereof shall have been stayed by any order or judgment of any competent court of law.

minors or insane persons, &c.

Proviso.

14. Every person who shall wilfully and knowingly remove, destroy, or efface, or attempt to remove, destroy, or efface, any landmark or boundary which shall serve to mark the limits of any land, except for the purpose of repairing the same, shall be guilty of an offence, and be liable, on conviction thereof, to payment of any fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any period not exceeding one year.

Penalty on removing landmarks.

17th January 1844.

54.

No. 8 of 1844.

An Ordinance for the Suppression of Lotteries.

Whereas great mischief has been found to result from the existence of lotteries:

Preamble.

1. All lotteries and all undertakings in the nature of lotteries, under whatsoever denomination or pretence they shall be set up, carried on, or kept, shall be deemed and are hereby declared to be common nuisances and against law.

Lotteries declared nuisances.

2. If any person shall set up, carry on, or keep, or shall cause or procure to be set up, carried on, or kept, or shall in any way be knowingly concerned in the setting up, carrying on, or keeping any lottery or undertaking in the nature of a lottery, under any denomination or pretence whatsoever, or shall make, print, or publish, or cause to be made, printed, or published, any proposal or scheme under any denomination, name, or title whatever, for any lottery or undertaking in the nature of a lottery, to be set up, carried on, or kept, either within this island and its dependencies or at any place elsewhere, or any advertisement of the sale of any ticket, share, or chance in any such lottery or undertaking, or shall keep or use, publicly or privately, any office or place for the purposes of any such lottery or undertaking, or shall knowingly suffer any such lottery or undertaking to be drawn or carried on, or anything to be done in furtherance of any such lottery or undertaking in his or her house, or in any place belonging to or occupied by him or her, every such person shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding fifty pounds.

Person setting up lottery.

3. If any person shall draw, or cause to be drawn, any ticket, lot, chance, share, number, or figure in any such lottery, or undertaking in the nature of a lottery, or shall by playing, throwing, or in any other way whatsoever, endeavour to win or obtain any

Person drawing ticket in lottery.

prize in, or to derive any benefit for himself or for any other person from any such lottery or undertaking, every such person shall be guilty of an offence, and be liable, on conviction thereof, to a fine of five pounds.

Person selling or buying ticket.

4. If any person shall, within this island and its dependencies, sell, deliver, or dispose of, purchase, or wilfully receive any ticket, receipt, chance, share, or number, or anything in the nature or having the effect of a ticket, receipt, chance, share, or number in any lottery, or undertaking in the nature of a lottery, set up, carried on, or kept, or to be set up, carried on, or kept in any place, either within or beyond this island and its dependencies, shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

Persons assisting in setting up lottery.

5. If any person shall, under any pretence, device, or description whatsoever, agree to pay any sum, or deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing, winning, or obtaining of any ticket, lot, chance, share, number, or figure in any such lottery, or undertaking in the nature of a lottery, or shall make, print, or publish any proposal, under any denomination, name, or title whatever, for any of the purposes aforesaid, every such person shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

Search for lottery.

6. It shall be lawful for any person holding a warrant in that behalf under the hand of any competent justice of the peace, who is hereby empowered to grant the same upon complaint or information on oath of the commission of any offence specified in this clause, or for any superintendent or officer of police, or any peace officer whatsoever, upon reasonable grounds of suspicion that any such lottery, or undertaking in the nature thereof, is set up, kept, or carried on in any house, premises, or place, or that anything has lately been done, or is then in the course of being done, in any house, premises, or place in furtherance of any such lottery or undertaking, to break open or otherwise forcibly enter any such house, premises, or place, after having given sufficient intimation of his object and not having obtained admission, and to seize and apprehend all persons whom he shall find therein doing or assisting in the doing of anything respecting any such lottery or undertaking which shall be declared punishable by this Ordinance, and to seize all papers, instruments, and things employed in or about such lottery or undertaking, and to take such persons and things before some competent justice of the peace or court to be dealt with according to law; and every person obstructing, opposing, molesting, or hindering, and every person aiding in or inciting to the opposing, molesting, or hindering any such superintendent or officer of police, or peace officer, or any person acting under the authority of such warrant as aforesaid, in the due entering into any such house or premises or place, or in the seizing, detaining, or conveying any such offenders, or any such papers, instruments,

or things, before such justice or court, shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

7. It shall not be competent for any court within this island to try any person for any offence or alleged offence against this Ordinance, unless the prosecution of such person for such offence shall have been expressly authorized by the Queen's Advocate. No prosecution but by authority of Queen's Advocate.

8. One half of all fines recovered under the provisions of this Ordinance shall go to our Lady the Queen, and the other half to the informers; and if any person upon whom any fine shall be imposed under the provisions of this Ordinance shall fail to pay the same, the informer shall be entitled to receive from the Government Agent the amount of the share of such fine to which he would have been entitled if the same had been paid; provided that the said Government Agent shall not be bound to pay in respect of any one such share any sum exceeding the sum of seven pounds and ten shillings. Informers share of fines.

9. No person shall be deemed incompetent to give evidence at the trial of any party for any offence created by this Ordinance by reason of any reward or share to which he would be entitled under the provisions of the preceding clause upon the conviction of such party, anything in the Ordinance No. 6 of 1834, entitled "Ordi-" nance declaring English rules of evidence to be in force in this " island, unless in cases otherwise expressly provided for by law; and " prescribing the course by which evidence is to be obtained in " certain cases," to the contrary notwithstanding. Informer competent witness.

10th July 1844.

55.

No. 10 OF 1844.

An Ordinance to amend the Law relative to the Distillation and Sale of Arrack, Rum, and Toddy within these Settlements.

WHEREAS it is expedient to amend the law relative to the distillation and sale of arrack, rum, and toddy within these settlements: Preamble.

1. Repealing clause.

2. It shall not be lawful for any person or persons to have or keep any still whatever for the purpose of making, distilling, rectifying, or compounding spirits without having first obtained a licence for that purpose under the provisions of this Ordinance, signed by the Government Agent of the province in which such still is intended to be had or kept: Provided always, that persons in partnership carrying on any one such trade or business in one house or place only shall not be obliged to take out more than one such licence in any one year; and that no one licence which shall Distiller to have licence.

be granted by virtue of this Ordinance shall authorize or empower any person or persons to whom the same shall be granted to have, keep, or make use of any still, or to distil, rectify, or compound any spirits in any other house or premises than the house or premises mentioned in such licence.

Restriction of distillation.

3. No licence shall be granted for the distillation of spirit from any other substance than the produce of the cocoa nut or other description of palm, or of the sugar cane.

Description of still and premises to be furnished.

4. Before any licence shall be granted for distilling, rectifying, or compounding spirits, the person applying for the same shall furnish the Government Agent with a description of the still, setting forth its shape, dimensions, and proportions, and also a description of the premises in which it is intended to erect the same.

Distiller to make declaration of name and residence.

5. Before any licence shall be granted for distilling, rectifying, or compounding spirits, the person applying for the same shall furnish the Government Agent with a declaration in writing setting forth the name or names and residence or residences of himself and of the principal person or persons under whose actual management or superintendence the said trade or business is intended to be carried on; and further that such applicant is the owner of the still for the use of which he shall have applied for a licence, or that he is duly authorized by the actual owner thereof to make such application; and if the party making such declaration shall cease to be the owner or the authorized agent of the owner thereof, or if any other person shall be intrusted with the actual management or superintendence of such trade or business, further declaration thereof shall be forthwith made to the Government Agent, and every such declaration shall be signed by the party making the same, and shall be registered by the Government Agent in a register to be by him kept for that purpose; and if any such declaration shall be false, the party making the same shall be guilty of an offence, and be liable on conviction to a fine of twenty pounds.

Premises to be duly secured.

6. No licence shall be granted for the use of any still for the purpose of distilling, rectifying, or compounding spirits unless the premises within which such business is intended to be carried on shall be secured to the satisfaction of the Government Agent by a wall or otherwise.

Distiller to have store.

Spirits found out of store.

7. There shall be constructed upon the premises mentioned in the preceding clauses one or more safe and secure houses or stores, a particular description whereof shall be furnished to and registered by the Government Agent, and that all spirits when distilled shall be deposited therein; and any spirits which may be found in any part of the premises of any distiller, rectifier, or compounder, except in such houses or stores, shall be forfeited, unless the same shall be lawfully possessed by him under any of the provisions of this Ordinance; and every person in the actual management or superintendence of the trade or business of any licensed distiller, rectifier, or compounder, on whose premises such spirits shall be found, shall, whether he be himself the licensed distiller,

rectifier, or compounder, or only the manager or superintendent, be guilty of an offence, and be liable, on conviction, to a penalty not exceeding five shillings for every gallon of spirits so found.

Distillery to be kept clear of jungle.

8. No tree, plant, or shrub shall be permitted to grow or remain within twenty feet of the buildings used by any distiller, rectifier, or compounder for the purpose of distilling, rectifying, compounding, or storing spirits, and any distiller, rectifier, or compounder, or his manager or superintendent, knowingly permitting any tree, plant, or shrub to grow or remain contrary to the provisions of this clause shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

Issue of licence.

Agent may refuse licence.

9. The licence herein-before required shall be issued by the Government Agent to the party applying for the same within ten days from the receipt of the application of such party: Provided always, that it shall and may be lawful for any Government Agent to refuse to issue a licence for the use of any still, or for distilling, rectifying, or compounding any spirits, provided that such refusal, and the reasons thereof, shall with all convenient despatch be reported to the Governor, by whom such refusal shall and may be confirmed or reversed.

No still to contain less than 150 gallons.

10. No licence shall be issued by any Government Agent which shall authorize any person to have, keep, or make use of any still for making, distilling, rectifying, or compounding spirits the body of which, without the head thereof, shall be of less capacity or content than one hundred and fifty gallons, unless such still shall be of such peculiar construction as shall, in the opinion of the Government Agent, render it unnecessary to require its body to be of so large a capacity as aforesaid.

Form of licence; and duration.

Duty on licence.

11. Every licence for the distillation of spirits which shall be granted under this Ordinance shall be as near as is material according to the form A. hereto annexed, and shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter inclusive; and that it shall be lawful for the Government Agent to demand and receive, before granting any such licence, the sum of three pounds.

Unless required for medical purposes.

12. It shall be lawful for any Government Agent to grant free of all charges, to any apothecary, chemist, or druggist applying for the same, a licence (which shall remain in force for such time as to such Government Agent may appear expedient, and which shall be stated in such licence) to keep on his premises a still, the body of which, exclusive of the head thereof, shall not contain more than eight gallons, and to use the same for the distillation of spirit from any substance, anything in the third clause of this Ordinance contained to the contrary notwithstanding, for the purposes of his trade only; and any apothecary, chemist, or druggist who shall have or keep any still, vessel, or utensil adapted for the purpose of distillation without such licence, or who shall use or permit the use of any such still, vessel, or utensil except for the preparation of medicines or other articles required *bonâ fide* for medical purposes, shall be guilty of an offence, and be liable, on conviction, to a fine of fifty pounds; and every such still, vessel, and utensil, and

all spirit distilled by such apothecary, chemist, or druggist, shall be forfeited.

Penalty on illicit distillation.

13. Any person who shall distil any spirit from any other substance than the produce of the cocoa nut or other description of palm, or of the sugar cane, unless under the provisions of the preceding clause of this Ordinance, or who shall, without obtaining a licence as herein-before required, unless he be acting for and by the authority and for the benefit of and in conformity with the licence granted to any licensed distiller, rectifier, or compounder, have or keep any still, vessel, or utensil adapted for the purpose of distilling, rectifying, or compounding spirits, or distil, rectify, or compound any spirits, or who, after the thirty-first day of December next after the date of any such licence, and until such person shall have obtained a new licence for that purpose, shall continue to have or keep any still, vessel, or utensil as aforesaid, or to distil, rectify, or compound any spirits, or any licensed distiller, rectifier, or compounder, or manager or superintendent, who shall erect, place, or use any still, vessel, or utensil adapted for the purpose of distilling, rectifying, or compounding spirits upon any premises other than those mentioned in the licence granted to such distiller, rectifier, or compounder, shall be guilty of an offence, and be liable, on conviction, to a fine of one hundred pounds, or to imprisonment, with or without hard labour, for six months, and to a further fine of five shillings for every gallon of spirits which may be proved to have been so distilled, rectified, or compounded; and every person knowingly procuring or inciting to or aiding or abetting in the commission of any such offence shall be equally guilty with the principal offender, and shall be punishable in like manner; and every such still, vessel, and utensil, and all such spirits, shall be forfeited.

Distiller not to sell less than 35 gallons of spirit.

14. Every licensed distiller, rectifier, or compounder, and every person in the management or superintendence of the trade or business of any licensed distiller, rectifier, or compounder, who shall sell or dispose of, or knowingly cause or permit to be sold or disposed of on his account, any spirits in a less quantity than thirty-five gallons at any one time, shall be guilty of an offence, and be liable, on conviction, to a penalty of five pounds.

Certain districts excluded from operation of certain provisions as to distillation of arrack.

15. And whereas much hardship would be inflicted in those districts in which distillation has been hitherto permitted if this Ordinance were to come into full and immediate operation therein: It is therefore further enacted, that the sixth, seventh, eighth, and tenth clauses hereof shall not come into operation nor be of any force or effect, so far as they relate to the distillation of spirits from the produce of the cocoa nut or other description of palm, within the districts herein-after enumerated, that is to say, Pantura, the Raygam, Pasdoon, and Wallalawitty Corles, and the Caltura division within the Western Province, and Bentotte Wallawitty Corle, Amblangodde, Wellebodda Pattoo, Gangebodda Pattoo, and Akmiamene of the Galle district, Belligam Corle and Tottamoone, Four Gravets of Matura and Wellebodda Pattoo of the Matura district, and the Girreway Pattoo within the Southern Province.

16. All certificates of registry which may have been heretofore granted to wholesale dealers in arrack shall be and the same are hereby declared to be void and of no effect. Certificates of wholesale dealers void.

17. No sale of spirits distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, shall be considered wholesale, unless the quantity sold amounts to or exceeds thirty-five gallons; and any wholesale dealer who shall sell or dispose of, or knowingly cause or permit to be sold or disposed of on his account, any such spirits in any less quantity than thirty-five gallons shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds. Wholesale sale of spirits.

18. It shall not be lawful for any person, other than a licensed distiller, rectifier, or compounder, with respect to the spirit lawfully distilled, rectified, or compounded by him, to deal by wholesale in spirits distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, unless he shall first have obtained a licence to that effect, as herein-after mentioned, from the Government Agent of the province within which such wholesale dealing is intended to be carried on; and any person, except such licensed distiller, rectifier, or compounder as aforesaid, selling or disposing of such spirits by wholesale, or knowingly causing or permitting such spirits to be sold or disposed of by wholesale on his account, without such licence as aforesaid, unless he be acting for and by the authority and for the benefit of and in conformity with the licence granted to such wholesale dealer, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding fifty pounds, and to a further fine of five shillings for every gallon of spirits which shall be proved to have been so sold by him. Wholesale dealer in spirits to have licence. Penalty.

19. It shall not be lawful for any person to deal by wholesale in spirits distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, unless he shall have one or more safe and secure storehouses, which shall in no case be within any part of the dwelling house of such person or of any other person, for the purpose of depositing and keeping any such spirits which he may have in his possession; and any such spirits which may be found belonging to or in the possession of or in or upon any part of the premises of any wholesale dealer, and not within such storehouse as aforesaid, unless during the actual removal of such spirits to or from such storehouse, or unless the same shall be lawfully possessed by him under any of the provisions of this Ordinance, shall be forfeited. And a secure storehouse.

20. Any person who may be desirous to obtain a licence to deal by wholesale in spirits distilled from the produce of the cocoa nut or other description of palm, or sugar cane, shall make an application in writing to that effect to the Government Agent of the province within which such wholesale dealing is intended to be carried on, which application shall contain a true and full description of the name and residence of the person making the same, and of the place at which his storehouse or storehouses shall be situate, and shall pay to such Government Agent the sum of three pounds; and such Government Agent shall, within ten days from the receipt of such application and payment, issue to the person Application for licence. Issue of licence

making the same a licence, as near as is material according to the form B. hereto annexed, to deal in such spirits by wholesale, which licence shall entitle the person to whom the same shall be issued to have in his possession any quantity of such spirits lawfully purchased or distilled, either for exportation or for sale by wholesale, and shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter inclusive; but if any Government Agent shall see any just and reasonable ground for so doing, it shall be lawful for him to refuse to issue such licence, provided that such refusal, and the reasons thereof, be with all convenient despatch reported to the Governor, by whom such refusal shall and may be confirmed or reversed.

Government agent may refuse licence.

Wholesale dealer to sell at store.

21. It shall not be lawful for any wholesale dealer in spirits distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, to sell or dispose of such spirits at any other place than at the storehouse or storehouses mentioned in the licence which shall have been granted to such dealer, and any wholesale dealer selling or disposing of or causing or permitting to be sold or disposed of on his account any such spirits, contrary to the provisions of this clause, shall be guilty of an offence, and be liable, on conviction, to a fine of fifty pounds.

Agent may place lock on store of wholesale dealer.

22. It shall be lawful for the Government Agent, if he shall see fit so to do, to place or cause to be placed one or more locks upon each of the doors of the storehouse or storehouses of any licensed wholesale dealer in spirits distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, and to intrust the keys thereof to any person that he may think fit; provided always, that such wholesale dealer shall at all times during the day have free access to such storehouse, and that on his application the person intrusted with the keys thereof shall within a reasonable time attend with the keys for the purpose of opening the same; and if any such wholesale dealer or any other person shall remove or cause to be removed any lock so placed upon his storehouse, or shall open or enter into the same, or permit any person so to do, without application to or previous to the attendance of the person intrusted with the keys as aforesaid, he shall be guilty of an offence, and be liable, on conviction, to a fine of fifty pounds.

Storehouse to be kept clear of jungle.

23. No tree, plant, or shrub shall be permitted to grow or remain within twenty feet of any storehouse of any licensed wholesale dealer, and any licensed wholesale dealer knowingly permitting any tree, plant, or shrub to grow or remain, contrary to the provisions of this clause, shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

Search by authority of Government agent.

24. It shall and may be lawful for any person authorized in that behalf in writing under the hand of the Government Agent, at all times, as well by night as by day, to enter into any house, outhouse, or place whatsoever made use of by or on account of any licensed distiller, rectifier, or compounder of or wholesale dealer in spirits distilled from the produce of the cocoa nut or other description of palm, or the sugar cane, for the purpose of his

trade or business, and to measure and take an account of all such spirits, and of every still and utensil of any kind kept therein; provided that such person shall, if required so to do, produce to the person in charge of such premises the authority which may have been granted to him as aforesaid; and if any party shall in any way molest, obstruct, or hinder such person in the execution of the powers vested in him as aforesaid, such party shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, not exceeding six months.

Reference to Queen's Advocate by justice of the peace.

25. If any person charged with the breach of any of the preceding clauses of this Ordinance shall be brought before any Justice of the peace for examination, such Justice shall not commit such person finally for trial until he shall have referred the proceedings had before him in respect of such charge to the Queen's Advocate or to some competent Deputy Queen's Advocate, nor until he shall have received the instructions of such officer for the commitment of such person for trial.

Retail of arrack and rum.

26. No person shall sell or dispose of by retail, that is to say, in less quantity at any one time than thirty-five gallons, any spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, without having first obtained a licence, as near as is material according to the form C. hereto annexed, for that purpose from the Government Agent of the province in which such sale by retail is intended to be carried on, or unless he be acting for, and by the authority and for the benefit of, and in conformity with the licence granted to, such licensed retail dealer; and any person who shall sell or dispose of or cause or permit to be sold or disposed of on his account by retail any such spirits, without such licence, or contrary to the tenor thereof, shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

Retailer to sell two quarts.

27. Every person licensed to sell spirits under the provisions of the preceding clause shall at all times during the day be and he is hereby required during the continuance of his licence to sell spirits not exceeding two quarts, immediately on application for the same, and any licensed retail dealer neglecting, refusing, or wilfully delaying to sell such quantity of such spirits shall be guilty of an offence, and be liable, on conviction, to a fine of one pound.

Certificate to purchaser.

28. Whenever any licensed retail dealer or person acting in his behalf shall sell spirits exceeding in quantity two quarts, he shall grant a certificate of such sale to the purchaser, which certificate shall be signed by such licensed retail dealer or person acting on his behalf, and shall specify the date thereof, the quantity purchased, the name of the purchaser, the period within which it is to be removed, and the places from and to which it is to be removed, and both which places must be within the district in which such person shall be licensed to sell the same, and which certificate such licensed retail dealer or person acting on his behalf is hereby required to give upon receipt of the value of the spirits so sold and any licensed retail dealer or person acting on his

behalf neglecting, refusing, or wilfully delaying to grant such certificate accordingly shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds; provided always, that in every instance in which spirits exceeding three gallons shall be sold by any licensed retail dealer, no certificate shall continue in force or shall be held to legalize the possession of any such spirits exceeding in quantity three gallons for a longer period than forty-eight hours, unless such purchaser shall have also obtained a special licence from the Government Agent for such longer period as may be therein specified.

Licence to retail wine or spirits.

29. No wine or spirits or spirituous liquors of any description whatsoever shall be sold for the purpose of being consumed on the premises within which the same shall be sold, unless the person selling the same shall first have obtained a licence for that purpose from the Government Agent of the province within which such sale is intended to be carried on, or unless he be acting for and by the authority and for the benefit of, and in conformity with the licence granted to, such licensed retail dealer; and any person who shall sell or dispose of or cause or permit to be sold or disposed of on his account any wine, spirits, or spirituous liquors for consumption as aforesaid, without such licence, or contrary to the tenor thereof, shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

Application for licence.

30. Any person who may be desirous to obtain a licence to sell any wine, spirits, or spirituous liquors, not being the produce of the cocoa nut or other description of palm, or of the sugar cane, for the purpose of being consumed on the premises within which the same shall have been sold, shall make an application in writing to that effect to the Government Agent of the province within which such sale is intended to be carried on, which application shall contain a true and full description of the name and residence of the person making the same, and of the place at which such sale is intended to be carried on, and shall pay to such Government Agent the sum of two pounds; and such Government Agent shall, within ten days from the receipt of such application, issue to the person making the same a licence, as near as is material according to the form D. hereto annexed, to sell spirits, wine, and spirituous liquors, not being the produce of the cocoa nut or other description of palm, or of the sugar cane, for consumption as aforesaid, which licence shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter, inclusive; but if any Government Agent shall see just and reasonable ground for so doing, it shall be lawful for him to refuse to issue such licence, provided that such refusal and the reasons thereof be with all convenient despatch reported to the Governor, by whom such refusal shall and may be confirmed or reversed.

Issue of licence.

Government Agent may refuse licence.

Agent may withdraw licence of wholesale or retail dealer.

31. If any licensed wholesale or retail dealer in spirits or toddy shall be convicted of an offence against any of the provisions of this Ordinance, it shall be lawful for the Government Agent, if he shall see fit so to do, to call upon such wholesale or retail dealer

in writing to give up the licence which shall have been issued to him, and such licence shall thereupon be deemed and taken to be withdrawn and shall be of no further force or effect.

Possession of arrack and rum.

32. The possession by any person of any spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, shall be unlawful, except under the following circumstances, that is to say,

Except such spirit shall be in the possession of any licensed distiller or wholesale or retail dealer, in conformity with the provisions of this Ordinance;

Or except such spirit shall be in the possession of any person legally empowered to remove the same;

Or except such spirit shall be possessed by the authority of the Government Agent of the province within which it shall be possessed;

Or except such spirit shall have been legally sold to the persons in whose possession it shall be found, provided, if the quantity be less than thirty-five gallons, it shall have been purchased from the licensed retail dealer of the district within which it shall be possessed; and provided further, that the possessor of any such spirit shall, when necessary, have taken out the certificate or certificates required by the twenty-eighth clause of this Ordinance;

And any person possessing any such spirit under any circumstances not specified in some one or more of the above-mentioned exceptions shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds, and to a further fine of five shillings for every gallon of such spirits so illegally possessed, and all such spirits shall be forfeited.

Removal of arrack and rum.

33. No spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, in any quantity exceeding two quarts, shall be removed without a permit accompanying the same, as near as is material of the form E. hereto annexed, which permit shall specify the date thereof, the names of the person removing such spirit and of the person on whose behalf it is removed, the quantity to be removed, the period within which it is to be removed, the places from and to which it is to be removed, and the mode in which it is to be removed; and such permits shall be granted by the Government Agent of the province, or by the licensed retail dealer of the district from or within which such spirit is to be removed, or by any other person duly authorized in writing under the hand of the Government Agent; provided that if the quantity of such spirit shall exceed thirty-five gallons, no such permit shall be issued to any person not being or acting on behalf of some licensed distiller or wholesale or retail dealer, except by the Government Agent; and provided further, that if the quantity of such spirit shall be less than thirty-five gallons, no such permit shall be issued by any licensed retail dealer for the removal of the same beyond the limits of the district within which he shall be licensed to retail the same.

Authority to demand permit;

34. It shall be lawful for any person authorized in that behalf in writing under the hand of the Government Agent at all times,

as well by night as by day, to stop any person removing what there may be reasonable ground to suppose to be spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, and to demand the production of the permit granted for the removal of the same; provided that such first-mentioned person shall produce to the person removing any such spirit the authority which shall have been granted to him as aforesaid.

and examine spirit.

35. It shall be lawful for any person authorized under the provisions of the preceding clause to satisfy himself that the removal of any spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, is all in respects in conformity with the permit granted for the same; and if such person shall find that the quantity of such spirits removed, or the means or time of removal, or the places to or from which it is removed, shall not correspond with the same particulars as appearing in the permit accompanying the same, or if no permit shall be produced for the removal thereof, it shall be lawful for such person to detain any such spirit and without delay to give the same, together with every cart, waggon, boat, vessel, animal, or other conveyance employed in such removal, into the charge of the Government Agent, to be dealt with according to law; and if any person removing any such spirit shall, after production of the authority to demand the permit for such removal, refuse to produce the same, or shall in any way molest, obstruct, or resist any person producing such authority in the execution of his duty under this Ordinance, he shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds, or to imprisonment with hard labour for any period not exceeding three months.

Officer refusing to grant permit.

36. If any party by the thirty-third clause of this Ordinance empowered to grant permits for the removal of spirit shall refuse, neglect, or wilfully delay to issue such permit without fee, gratuity, or reward, such party shall, over and above any damages which may be recovered against him for loss sustained by the party requiring the same, be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

Penalty on illegal removal of arrack and rum.

37. All spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, which shall be removed without a permit, as required by the thirty-third clause of this Ordinance, accompanying the same, or not in conformity with the terms of such permit, and every cart, waggon, boat, vessel, animal, or other conveyance employed in such removal, shall be forfeited; and the owner of such spirit and every person concerned in the removal thereof shall be guilty of an offence, and be liable, on conviction, to a fine at the rate of thirty shillings per gallon, whether more or less, upon the quantity so removed; and every person employed or concerned in such illegal removal who shall not give up the true name and place of abode of the owner of such spirit shall be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

38. No person shall sell any toddy by retail, that is to say, in any less quantity at any one time than fifteen gallons, without having first obtained a licence for that purpose, as near as is material of the form F. hereto annexed, from the Government Agent of the province in which such sale by retail is intended to be carried on, or unless he be acting for and by the authority and for the benefit of and in conformity with the licence granted to such retail dealer, which licence shall be in force on and from the day on which the same shall be granted until the thirtieth day of June next thereafter, inclusive. Licence to retail toddy.

39. It shall not be lawful for any person to draw or cause to be drawn any toddy from any cocoa nut or other description of palm, either on his own account, being a distiller duly licensed under the provisions of this Ordinance, or for the purpose of selling the said toddy to any such distiller or to any licensed retail dealer in toddy, unless he shall first have obtained a permit for that purpose, as near as is material of the form G. hereto annexed, from the Government Agent of the province, or from some person authorized in writing under his hand to grant such permit, or from the licensed retail dealer in toddy for the district within which such palm shall be situated, which permit shall be issued to such person on his application free of all charge, and shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter, inclusive. Permit to draw toddy for distillers, renters, and retailers;

40. It shall not be lawful for any person to draw or cause to be drawn any toddy from any cocoa nut or other description of palm for any other than the afore-mentioned purposes, unless he shall first have obtained a licence for that purpose, as near as is material of the form H. hereto annexed, from the Government Agent of the province or from the licensed retail dealer in toddy of the district within which such palm shall be situated, which licence shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter, inclusive; and such Government agent or licensed retail dealer shall be entitled to demand and receive the sum of one pound for each cocoa-nut tree and for each palmira tree, and of two pounds for each jaggery tree for which such licence shall be granted. or for other purpose.

41. It shall not be lawful for any person other than the licensed retail dealer in toddy within the district in which he shall be licensed to retail the same, or person authorized under the provisions of the thirty-ninth clause of this Ordinance, to sell any toddy whatsoever. Sale of toddy.

42. It shall not be lawful for any person to possess toddy in any quantity exceeding one gallon, unless the same shall belong to or be for the use of the licensed retail dealer in toddy for the district in which the same shall be possessed, or shall belong to or be for the use of some duly licensed distiller, or shall belong to or be for the use of some person authorized under the thirty-ninth or fortieth clauses of this Ordinance to draw the same, and shall be Possession of toddy.

possessed within the premises of the said retail dealer, distiller, or authorized person respectively.

Removal of toddy.

43. It shall not be lawful for any person to remove any toddy in any quantity exceeding one gallon.

Removal and possession with permit.

44. It shall be lawful for the Government Agent, or any person thereto authorized by him in writing under his hand, or the licensed retail dealer in toddy within the district in which he shall be licensed to retail the same, to grant a permit, as near as is material of the form I. hereto annexed, for the removal and possession of any quantity of toddy, which permit shall specify the places from and to which the same is to be removed, or in which it shall be kept, and shall remain in force for such period as shall be therein stated; provided that no such permit shall remain in force after the thirty-first day of December next after the date thereof.

Officer refusing to grant permit.

45. If any party by the preceding clause of this Ordinance empowered to grant permits for the removal and possession of toddy shall, on application made to him, refuse, neglect, or wilfully delay to issue any such permit, without fee, gratuity, or reward, such party shall, over and above any damages which may be recovered against him by the party applying for such permit, be guilty of an offence, and be liable, on conviction, to a fine of five pounds.

Penalty on illicit drawing, sale, possessing, or removal of toddy.

46. Any person drawing, selling, possessing, or removing, or causing to be drawn, sold, or removed, any toddy, contrary to the provisions of this Ordinance, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding five pounds for each offence; and all toddy so illegally drawn, sold, possessed, or removed shall be forfeited.

Proviso as to sweet toddy.

47. Provided always, that the restrictions herein-before contained in respect to drawing, selling, possessing, and removing toddy shall not be deemed to apply to sweet toddy.

Extension of licence to representative of deceased party.

48. If any spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, shall be found in the estate of any deceased person, who shall during his lifetime have been legally entitled to possess the same, it shall be lawful for the legal representative or representatives of such person, at any time within one week after the death of such person, to make application in writing to the Government Agent to be placed in the same position with respect to the possession of such spirit as the deceased person; and it shall be lawful for the Government Agent, and he is hereby required, within ten days after the receipt of such application, unless he shall have reason to doubt that the party or parties making the same is or are such *bonâ fide* legal representative or representatives, by a written authority under his hand to grant such application; and the party or parties to whom such written authority shall be granted shall be entitled to possess spirit in such and the same manner, and for the same period, and under the same restrictions, as the deceased person would be entitled to possess the same if he were alive: Provided always, that every person who shall in any such written application to the Government Agent falsely represent himself to be the

Person falsely applying as representative.

legal representative of any such deceased person as aforesaid shall be guilty of an offence, and be liable, on conviction, to a fine of twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months.

Where no representative of deceased.

49. If any spirit distilled from the produce of the cocoa nut or other description of palm, or of the sugar cane, shall be found in the estate of any deceased person who shall during his lifetime have been legally entitled to possess the same, and if no such application as in the preceding clause mentioned shall have been made to the Government Agent within the period therein prescribed, or if the Government Agent shall not be satisfied that the applicant or applicants is or are the *bonâ fide* legal representative or representatives of the deceased party, or if any such spirit shall be found in the possession of any licensed wholesale or retail dealer, at the time when the Government Agent shall, by virtue of the powers in him vested by the thirty-first clause of this Ordinance, call upon such wholesale or retail dealer to give up the licence which shall have been issued to him, it shall be lawful for the Government Agent to sell all such spirits by auction, at such time and place and in such manner as to him shall appear most expedient; and the Government Agent shall, after deducting the costs of such sale, and any other costs that may have been necessarily incurred in respect thereof, pay the balance of the amount realized by the same, if the spirit shall have been found in the estate of any deceased person, into the Loan Board, to be placed to the credit of the party or parties legally entitled to the same, and if such spirit shall have been found in the possession of any wholesale or retail dealer whose licence shall have been withdrawn, then to such wholesale or retail dealer repectively: Provided always, that if the quantity of such spirit shall be less than thirty-five gallons in any one case, it shall be lawful for the Government Agent to direct the same to be delivered over to the licensed retail dealer of the district in which the same shall be, and to pay into the Loan Board to be placed to the credit of the party or parties legally entitled to the same, or to pay to the wholesale or retail dealer whose licence shall have been withdrawn, as the case may be, the value of such spirit, at a rate of twenty per cent. under the price at which such retail dealer shall be licensed to retail the same.

Or licence withdrawn.

Punishment for forgery of permit or certificate.

50. Any person who shall forge, alter, or counterfeit, or procure or incite or assist any other person to forge, alter, or counterfeit any licence or permit required to be used or issued under this Ordinance, or shall knowingly and wilfully utter any such forged, altered, or counterfeit licence or permit, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months.

Seizure of forfeitures.

51. All spirits, toddy, stills, and other things which by this Ordinance are declared to be forfeited, shall and may be seized by any officer of police or any peace officer whatsoever, and when seized shall as soon as conveniently may be, be delivered into the charge of the Government Agent, to be by him safely kept until final-

judgment shall be given for the condemnation or restoration of the same.

Seizures to be taken to be condemned, unless claimed and security given.

52. All spirits, toddy, stills, and other things which shall be seized as forfeited under this Ordinance shall be deemed and taken to have been adjudged to be duly forfeited and condemned by a competent court of law, and may be dealt with in the manner directed by this Ordinance in respect of spirits, stills, and other things which shall have been actually so adjudged and condemned, unless the person from whom any such spirits, toddy, still, or other thing shall have been seized, or the owner of them, or some person authorized by him, shall within one calendar month from the day of seizing of the same give sufficient notice in writing to the Government Agent that he claims such spirits, toddy, still, or thing, or intends to claim them, and unless he shall also within ten days after the delivery of such notice give security to the satisfaction of the Government Agent to answer and pay the costs occasioned by such claim: Provided always, that no such notice shall be taken to be sufficient unless the same shall set forth the true and real name or names of the owner or owners of every thing so seized, and shall describe the place of residence, and the business or profession of every such owner, nor unless a declaration of the ownership of the things seized, signed by some such owner or by some person in the actual management or superintendence of the trade or business of the owner or owners, shall accompany such notice.

Proviso.

Declaration of ownership.

53. If such declaration shall be signed by the owner or part owner of anything so seized, it shall set forth that such thing was the *bonâ fide* property at the time of the seizure of the person or persons declared in such notice as aforesaid to be the real owner or owners; and if such declaration shall be signed by any person in the management or superintendence of the trade or business of the owner or owners, it shall set forth that to the best of his knowledge and belief the thing so seized was at the time of seizure the *bonâ fide* property of the owner or owners named in the said notice as aforesaid; and if any declaration so made shall be wilfully false the person making it shall be guilty of an offence, and be liable, on conviction, to a fine of twenty pounds.

Modes of proceeding for the condemnation of forfeitures.

54. Whenever any person shall be convicted of doing or permitting to be done or of leaving undone anything the doing of which or the permitting which to be done, or the leaving which undone, is declared to be an offence by this Ordinance, and the forfeiture of any spirits, toddy, still, or other thing, is also declared to be the consequence of such thing, being done or permitted to be done, or being left undone, it shall be lawful for any court before whom such person shall have been convicted, at the same time that it shall pass sentence upon such person, to declare and adjudge such spirits, toddy, still, or other thing to be forfeited, and to condemn the same whatever may be the amount or value thereof: Provided always, that it shall be lawful for the Queen's Advocate, if he shall think fit, to institute separate proceedings of a civil nature for the recovery of any such forfeiture; and the acquittal of any person charged with any offence in this clause mentioned shall not be

taken to be any sufficient reason why any such proceedings should not be instituted, or being instituted should be abated, or why such forfeiture should not be recovered.

55. Whenever any spirits, toddy, still, or other thing shall have been adjudged to be forfeited and condemned by any competent court of law, the Government Agent shall, within one month after such condemnation, cause the same to be sold by public auction to the best bidder: Provided always, that if any appeal shall be entered against any judgment of any court in respect of any suit or information on behalf of the Crown or of the defendant, no such sale shall take place until a final decision shall be given in the matter, and all such things shall until such time be kept in the custody of the Government Agent. Disposal of condemned forfeiture.

56. If any spirits, toddy, still, or other thing seized under the provisions of this Ordinance, and taken into the custody of the Government Agent, shall while being in such custody be destroyed by fire or stolen therefrom, or if any cask or vessel containing spirits shall burst, or if any spirits shall waste, the owner thereof shall not have any claim on the Crown or upon the Government Agent for compensation thereof; provided always, that if any person employed by the Government Agent about the custody of such spirits, toddy, still, or thing shall embezzle the same or any part thereof, or if any such spirits, toddy, still, or thing shall be stolen or destroyed or in any way injured through the negligence or misconduct of any person so employed, such person shall, in addition to any liability to be prosecuted criminally, be liable to make good to the party to whom such spirits, toddy, still, or other thing shall be eventually adjudged, whether such party be the Crown or the claimant, double the value of the thing that shall be so embezzled, stolen, destroyed, or injured. When things seized stolen or injured.

57. It shall be lawful for the Government Agent, with the sanction of the Governor, to order any spirits, toddy, still, or other thing seized under the provisions of this Ordinance to be restored at any time before the sale thereof, in such manner and on such terms and conditions as the Governor shall think fit to prescribe, and if the owner or any person duly authorized in his behalf shall accept the terms and conditions so prescribed, he shall not have or maintain any action for recompense or damage on account of such seizure, and no further proceedings shall be had for the condemnation of such seizure. Restoration of seizures.

58. Whenever any spirits, toddy, still, or other thing shall have been forfeited under the provisions of this Ordinance, but cannot be seized and secured on account of their having been made away with, or for any other reason, the owner or owners of such spirits, toddy, still, or thing shall forfeit double the value of any spirits, toddy, still, or thing which shall be proved to have been so forfeited. Where seizures cannot be effected.

59. Whenever any officer of police or peace officer whatsoever shall have good reason to believe that any spirits, toddy, still, or other thing have become forfeited and liable to seizure under the provisions of this Ordinance, and are to be found in any house, outhouse, or other premises or place whatsoever, it shall be lawful Powers of peace officers, &c.

for such officer, and for any person whom he shall call to his aid, to enter such house, outhouse, premises, or place, either by day or night, and to search for such spirits, still, toddy, or thing, and to seize the same; and if admittance into any such house, outhouse, premises, or place shall not be immediately given to any such officer or person called to his aid as aforesaid, upon being audibly demanded by such officer, it shall be lawful for such officer or person so called to his aid to break open or otherwise forcibly enter any such house, premises, or place.

Obstruction of peace officers.

60. Every person who shall hinder, molest, or obstruct any officer of police or peace officer whatsoever, or any person duly acting in aid of any such officer, in the execution of any duty or the exercise of any authority imposed upon or vested in him by this Ordinance, shall be guilty of an offence, and be liable, on conviction thereof, to a fine of five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months; and every officer of police or peace officer whatsoever who shall receive or demand any bribe, and every person who shall bribe or attempt to bribe any such officer, shall be guilty of an offence, and be liable on conviction to a fine of ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Bribery of or by officers.

Vexatious conduct of officers.

61. Every officer of police and peace officer whatsoever, and every person acting in the aid of any such officer, and every other person who shall under pretence of performing any duty or exercising any authority imposed upon or vested in him by this Ordinance, use unnecessary violence, or wantonly do any injury, or give uncalled-for and vexatious annoyance, shall be guilty of an offence, and be liable on conviction to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Probable cause of seizure.

62. In case any information or suit shall be brought to trial on account of any seizure made under this Ordinance, and the Judge before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, or to any damages in respect of such seizure, nor shall the person who made such seizure be liable to any action, information, or other suit or prosecution on account of such seizure.

Informer's share of fines.

63. One half of all fines actually recovered and realized under the provisions of this Ordinance shall go to our Lady the Queen, and the other half to the informer; and if any person upon whom any such fine shall be imposed shall fail to pay the same, the informer shall be entitled to receive from the Government Agent the amount of the share of such fine to which he would have been entitled if the same had been paid; provided that the said Government Agent shall not be bound to pay, in respect of any one such share, any sum exceeding the sum of seven pounds and ten shillings.

Informer competent witness.

64. No person shall be deemed incompetent to give evidence at the trial of any party for any offence created by this Ordinance, or at the trial of any suit or information instituted for the recovery

of or in relation to any forfeiture or seizure under this Ordinance, by reason of any reward or benefit to which such person may be entitled upon the conviction of such offender, or upon the adjudication of such forfeiture, anything in the Ordinance No. 6 of 1834, entitled "Ordinance declaring English rules of evidence to be in "force in this island, unless in cases otherwise expressly provided "for by law, and prescribing the course by which evidence is to "be obtained in certain cases," to the contrary notwithstanding.

65. Wherever in any clause of this Ordinance any person or thing is declared liable to any punishment, penalty, or forfeiture, but certain exceptions are therein expressed, excepting such persons or things under certain circumstances from such liabilities, it shall not be necessary to aver or show in any information or other proceeding for the prosecution of such offence, or for the recovery of such penalty or forfeiture, that the defendant or the subject of any such proceeding does not come within any such exception, but the proof thereof shall be upon the defendant. Defendant to prove whether he comes under exceptions.

66. In all cases wherein any act is authorized or directed by this Ordinance to be done by any Government Agent of any province, the same shall and may equally be done by any of his Assistants. Powers of Assistant Agents.

SCHEDULE.

A.

Licence to distil Spirits.

This is to certify that I Government Agent for the province, do hereby license the distillation of by the party or parties, with the still and at the place hereunder mentioned.

Name of Proprietor.	Name of Manager.	Size of Still.	Where situated.

Signed this day of

Government Agent.

B.

Licence to deal in Arrack and Rum by wholesale.

This is to certify that I Government Agent for the province, do hereby license to deal in spirits by wholesale, in conformity with the provisions of the Ordinance No. of 1844, at his storehouse situated at

Signed this day of

Government Agent.

C. and F.

LICENCE TO RETAIL ARRACK, RUM, AND TODDY.

THIS is to certify that I Government Agent for the province, do hereby license to sell arrack, rum, and toddy by retail, from the day of one thousand eight hundred and forty to the thirtieth day of June one thousand eight hundred and forty inclusive, at the tavern No. situated at and at no other place, on condition that the said shall sell arrack and rum at the price of per imperial gallon, and in proportion for any lesser quantity; and toddy at the price of per imperial gallon, and in proportion for any lesser quantity; and at no other prices whatsoever.

Signed this day of

Government Agent.

D.

LICENCE TO SELL WINE, SPIRITS, AND SPIRITUOUS LIQUORS FOR CONSUMPTION ON THE PREMISES.

THIS is to certify that I Government Agent for the province, do hereby license to sell any wine, spirits, or spirituous liquors, with the exception of arrack, rum, and toddy, at his premises situated at for the purpose of such spirits or spirituous liquors being consumed on the said premises, from the day of one thousand eight hundred and forty to the thirty-first day of December of the same year, inclusive.

Signed this day of

Government Agent.

E.

PERMIT FOR REMOVAL OF ARRACK AND RUM.

THIS is to certify that has my permission to remove of the property of from to within days from the date hereof in casks loaded in

Signed this day of

G.

LICENCE TO DRAW TODDY FOR DISTILLATION OR SALE TO DISTILLER.

THIS is to certify that is hereby licensed to draw toddy from trees, situated in the garden in the village of for the purpose of

Signed this day of

H.

Licence to draw Toddy for Private Use.

This is to certify that is hereby licensed to draw toddy from trees, situated in the garden in the village of . But such toddy shall not be used for the distillation of arrack, nor be sold to any person whatsoever.

Signed this day of

I.

Licence for Removal of Toddy.

This is to certify that has my permission to remove gallons of toddy from to and to keep the same at

Signed this day of

5th August 1844.

56.

No. 18 of 1844.

An Ordinance for the better Regulation of Prisons.

Preamble.

Whereas it is expedient to establish such regulations respecting the prisons in this island as will securely provide for the safe custody of the prisoners confined therin, as well as effectually preserve their health and improve their morals, and ensure the proper punishment of convicted offenders :

Existing public prisons, what, and how to be managed.

1. All the buildings, enclosures, premises, and places used, occupied, and supported by the Government of this island as public prisons, and which are particularly specified in the schedules to this Ordinance annexed, marked A. and B., shall be, and are hereby declared to be, respectively the public prisons for the district or districts, and for the reception of the classes of persons in the said schedules specified, and such prisons as are specified in the said schedule A. shall be subject, as far as is practicable, to the several provisions herein-after made for the regulation, management, care, and discipline of the same, and of the prisoners therein confined ; and such prisons as are specified in the said schedule B. shall be subject to such provisions, respecting their management and that of the prisoners therein contained, as shall from time to time be made by the Governor, with the advice of the Executive Council : Provided always, that it shall be lawful for the Governor at any time, with the advice of the Executive Council, by proclamation in the Gazette, to be for that purpose issued, to make any alteration which to him may appear necessary

in the said schedules, in so far as regards the removing any prison from one of the said schedules to the other, or altogether from both, or as regards the districts for which such prison shall be appointed, or as regards the classes of persons to be therein confined.

Future public prisons.

2. All buildings, enclosures, premises, and places which shall hereafter be erected, built, purchased, enlarged, used, occupied, or maintained at the public expense as and for public prisons within this colony, and which shall by proclamation to be from time to time published in the Government Gazette by order of the Governor be declared and notified as such public prisons, shall from and after the publication of such notification be severally deemed and taken to be the public prison for such district or districts, and for the reception of such classes of persons as shall be specified in such proclamation respectively, and shall be subject, as near as is practicable, to the several provisions herein-after made for the regulation, management, care, and discipline of the public prisons belonging to the said colony, and of the prisoners confined within the same, or shall be subject to such regulations in respect of their management, and that of the prisoners therein confined, as shall from time to time be prescribed by the Governor, with the advice of the Executive Council, according as such prison shall be declared in such proclamation to be of the class of prisons enumerated in the said schedule A., or of the class of prisons enumerated in the said schedule B : Provided always, that it shall be lawful for the Governor at any time, with the advice of the Executive Council, to revoke or amend any such proclamation.

Governor may remove prisoners from one prison to another.

3. It shall at any time be lawful for the Governor by writing under his hand to direct the removal of any prisoner, whether convicted or committed for trial or confined for debt, from one prison to another, and such writing shall be sufficient warrant for the Fiscal or keeper of the prison to which such prisoner shall be so directed to be removed, to detain such prisoner and deal with him according to law.

Warrants of commitment by justices, &c., when good out of their jurisdiction.

4. The warrant or sentence of any judge, police magistrate, or justice of the peace, committing any person for any offence cognizable by such judge, magistrate, or justice, to any of the said prisons in which such person shall be authorized to be detained under the provisions of this Ordinance, shall be good and sufficient, whether such prison shall or shall not be within the jurisdiction of such judge, magistrate, or justice.

Prisons to be divided into compartments.

5. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to give such directions for the division of prisons into compartments as shall be best adapted to carry into effect the provisions of this Ordinance ; and a part of every prison mentioned in the said schedule A. and of every prison at any time declared to be of that class of prisons, shall be called the House of Correction, and shall be set apart for such juvenile offenders, or for persons convicted of such offences as shall be from time to time specified in any directions to be for

that purpose given to the Fiscal by the Governor, with the advice of the Executive Council.

Public prisons to be under charge of Fiscal.

6. All public prisons already established or used and hereby declared to be the public prisons of this colony, and also all other public prisons which under the provisions of this Ordinance shall hereafter be notified in manner aforesaid to be and to be used as such within the said colony, shall be and are hereby declared to be (except as herein-after excepted) under the charge, care, and direction of the respective Fiscals of the province in which such public prisons shall be situated, subject, however, to the control of the Governor; and that all prisoners committed for any crimes, offences, or misconduct to such public prisons, and all persons confined for debt therein, shall be deemed to be in the custody of the said respective Fiscals, and that all the keepers and under-keepers of the said public prisons respectively, and the assistants of such keepers or under-keepers, and all other persons required and employed for the safety and care of the said public prisons, and of the prisoners confined therein respectively, shall be nominated and appointed and be liable at any time to be removed by the Governor: Provided always, that it shall be competent for the Fiscal, or any deputy-fiscal, at any time to suspend any such keeper, under-keeper, assistant, or person for any misconduct, and to appoint some other person to act in his room, or in the room of any such keeper, under-keeper, assistant, or person dying or becoming incapacitated, until the Governor's pleasure shall be known.

Appointment of keepers, &c.

Rules to be observed in public prisons, &c.

7. In every prison specified in the said schedule A., or hereafter established and declared by proclamation as aforesaid to be of the same class of prisons as those enumerated in the said schedule A., the following rules and regulations shall be observed and carried into effect as far as is practicable:

As regards keeper.

1st. The keeper of every prison shall reside therein. He shall not be concerned in any occupation or trade whatever. No keeper or officer of a prison shall sell, nor shall any person in trust for him, or employed by him, sell or have any benefit or advantage from the sale of any article to any prisoner, or directly or indirectly have any interest in any contract or agreement for the supply of the prison.

Matron to attend female prisoners.

2nd. A matron shall be appointed in every prison in which female prisoners shall be confined, who shall reside in the prison, and it shall be the duty of the matron constantly to superintend the female prisoners.

Keeper to visit wards,

3rd. The keeper shall visit every ward and see every prisoner and inspect every cell once at least every twenty-four hours; and when the keeper or any other officer shall visit the female prisoners he shall be accompanied by the matron, or in case of her unavoidable absence, by some female officer of the prison.

and to keep journal.

4th. The keeper shall keep a journal, in which he shall record all punishments inflicted by order of any person authorized in that behalf by the Governor as herein-after provided,

and the day when such punishments shall have taken place, and all other occurrences of importance within the prison, which journal shall be laid quarterly before the Colonial Secretary.

Sentences of hard labour to be enforced.

5th. Due provision shall be made in every prison for the enforcement of hard labour in the cases of such prisoners as may be sentenced thereto, and for the employment of other prisoners.

Classification of prisoners.

6th. Male and female prisoners shall be confined in separate parts of the prison, so as to prevent them if possible from seeing, conversing, or holding any intercourse with each other. And the following prisoners of each sex shall be divided into distinct classes, and be separately confined; that is to say, debtors and persons confined for contempt of court, or for want of securities; prisoners committed for further examination or for trial, and not tried; prisoners convicted of any crime or offence; and prisoners of the two last-mentioned classes shall, as far as the capabilities of the prison will admit, be classified according to the nature and enormity of their offences in such manner as the Governor with the advice of the Executive Council shall from time to time direct; and notoriously bad characters shall be kept as much as possible by themselves.

Female prisoners to be attended by females.

7th. Female prisoners shall in all cases be attended by female officers.

Provision for religious instruction.

8th. Such provision shall from time to time be made for the religious and other instruction of prisoners as the Governor and Executive Council shall direct.

When prisoners may be put in irons.

9th. No prisoner shall be put in irons by the keeper of any prison, except in compliance with the sentence of some competent court, or except in case of urgent and absolute necessity, and the particulars of every such case shall be forthwith entered in the keeper's journal, and notice forthwith given thereof to one of the visitors, and the keeper shall not continue the use of irons on any prisoner longer than four days consecutively, except in compliance with the sentence of some competent court.

Diet of convicted prisoners.

No betel, &c. to be allowed to those at hard labour.

10th. Convicted prisoners shall be allowed a sufficient quantity of plain and wholesome food, with proper variety, and a sufficient quantity of stimulating condiments to assist digestion, and such food shall be given to them cooked, but only those who are not sentenced to hard labour shall be allowed tobacco, betel, or any luxury, except by direction of the keeper or medical attendant, in the quantity and for the time recommended by him; and no convicted prisoner shall be allowed to receive anything in the way of food, luxury, or clothing from without the prison.

Diet of untried prisoners.

11th. Untried prisoners shall be allowed a moderate supply of the ordinary articles of luxury, as tobacco and betel, and shall be afforded the opportunity of receiving from

without the prison any articles of food and clothing, and such luxuries as may not be inconsistent with good order.

12th. No prisoner shall be allowed, on being admitted into any prison, to retain possession of any money or of any articles whatsoever, either in their wards or about their persons, except such as are furnished to them or they are allowed to retain under the rules of the prison, and except such books as may be approved of by the Fiscal or the keeper of the prison, or by a visitor. A register will be kept of all money and other property taken from any prisoner on his admission into prison, and shall be signed by the keeper and countersigned by the Fiscal, and shall be always open to the inspection of the visitors; and in the case of convicted prisoners, such money or other property, or so much of it as shall be sufficient, may be retained by the Fiscal (unless he shall receive instructions to the contrary from Government) in liquidation of the costs of the maintenance of such prisoner in prison.

What to be done with money, &c found on prisoners when brought to prison.

13th. Prisoners at hard labour, except those in houses of correction, shall wear a prison dress provided by Government; prisoners at hard labour in any house of correction, and convicted prisoners not at hard labour, shall be provided by Government with plain clothing similar to that ordinarily worn by the class of persons to which they may respectively belong; untried prisoners and debtors shall provide their own clothing.

Dress of prisoners.

14th. No person shall be allowed access to any prisoner at hard labour or to any prisoner under commitment for further examination, and no such prisoner shall be allowed to receive or send any written communication without a written order from the Fiscal or from some visitor, who is hereby required not to grant any such order except upon a formal and recorded proceeding, and upon being fully satisfied of the urgent necessity thereof.

No person to have access to or to communicate with any prisoner at hard labour.

15th. All persons shall be allowed access to convicted prisoners not sentenced to hard labour, and to untried prisoners not being under commitment for further examination, but they shall be liable to be searched on admittance into the prison, and to have anything found upon them retained (if it shall appear desirable to the keeper of the prison) while having such access; and such prisoners shall be allowed to receive and despatch written communications, subject, however, to such restriction as may be necessary for the maintenance of good order.

Access allowed to what prisoners.

16th. The surgeon, if there is one attached to the prison, shall examine every prisoner who shall be brought into the prison before he or she shall be passed into the proper ward, and shall examine every prisoner at least once a week, and no prisoner shall be discharged from prison if labouring under any acute or dangerous distemper, nor

Duties of surgeon.

until in the opinion of the surgeon such discharge is safe, unless such prisoner shall require to be discharged. The wearing apparel of every prisoner shall be fumigated and purified, if requisite, after which the same shall be returned to him or her, or in case of the insufficiency of such clothing, then other sufficient clothing shall be furnished according to the rules and regulations of the prison.

Prisons to be limewashed, and means of bathing, &c. provided for all prisoners.

17th. The walls of the wards, cells, rooms, and passages of the prison shall be scraped and limewashed at least twice in every year, and as many more times as the prison visitors shall deem expedient; and all prisoners shall be furnished with mats or other bedding, according to their habits, and with the means of washing or otherwise cleansing themselves, and of having their clothing washed; and provision shall be made for their bathing, within the prison if possible, or otherwise at the nearest convenient place; and during such bathing or washing care shall be taken that different classes and sexes of prisoners shall be kept separate, according to the rules herein-before laid down.

All prisoners to be allowed air and exercise.

18th. All prisoners shall be allowed as much air and exercise as may be deemed proper by the surgeon for the preservation of their health.

No spirituous liquors to be admitted into prison.

19th. No spirituous or fermented liquors, and no toddy, opium, or bang, shall be admitted into or supplied within any prison under any pretence whatever, unless by a written order of the surgeon specifying the quantity and for whose use.

No gaming to be allowed.

20th. No gaming shall be permitted in any prison, and the keeper shall seize and destroy all dice, cards, or other instruments of gaming.

No fee to be taken from prisoner.

21st. No money shall be taken by way of garnish, fee, or gratuity from any prisoner on his or her entrance into, or discharge from, or during his or her detention in the prison, under any pretence whatsoever.

Death of prisoner to be made known.

22nd. Upon the death of a prisoner notice thereof shall be given by the keeper forthwith to one of the visitors, as well as to the nearest coroner or deputy coroner of the district, and to the nearest relative of the deceased where practicable.

Governor may make further rules,

8. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make such further provisions for the management of the prisons specified in the schedule A., and of those of the like class that may at any time hereafter be established, as shall to him and them appear expedient, and as shall not be repugnant to the provisions of this Ordinance, and to authorize fiscals or keepers of prisons not to extend to the case of debtors any provisions of this Ordinance which to him and the Executive Council shall appear not proper to apply to such case.

9. It shall and may be lawful for the said Governor, when he shall think fit or desirable, to nominate and appoint one or more fit and proper person or persons to be the visitor or visitors of any prison, and every such visitor to remove or displace and to appoint another or others in his stead; and every visitor so appointed shall be at liberty to enter at all times any such prison and to make any inquiries or examination therein as to him shall appear necessary, and they are hereby required to visit such prison at least once in every week, unless prevented by illness or other sufficient cause, and shall from time to time make such reports to the Colonial Secretary as may be required by order of the said Governor; and any gaoler, turnkey, or other person employed in any such prison who shall at any time refuse admittance to any such visitor or to any justice of the peace for the district in which any such prison is situated, or offer to him any hindrance or obstruction, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds: Provided that nothing herein contained shall be taken to abridge or affect the power of any Judge of the Supreme Court to visit and examine any prison at any time, how and when he may think fit.

and appoint visitors.

Proviso.

10. It shall be lawful for any person holding a warrant in that behalf under the hand of the Governor, and he is hereby required, to inquire into any of the following offences alleged to have been committed by any prisoner within any prison named in such warrant; that is to say, disobedience of the rules of the prison; assaults by one prisoner upon another, where no severe wound or bruise is given; profane cursing or swearing, or any indecent behaviour; refusal to work, or any idleness or negligence in working, or wilful mismanagement of work; and if any such prisoner shall thereupon appear to any such person to be guilty of any such offence it shall be lawful for such person to punish the same by whipping (if such prisoner shall be a male) not exceeding twelve lashes, or by solitary confinement on the sparest possible diet consistent with health for any period not exceeding seven days, or by both; and the keeper of every such prison shall cause every order for any such punishment to be carried into effect: Provided always, that every such punishment shall be inflicted within twenty-four hours at the latest after such inquiry, unless Sunday, Good Friday, or Christmas Day shall intervene; and provided further, that every person ordering such infliction shall transmit to the Colonial Secretary a report of the substance of such inquiry, and of the punishment awarded.

Punishment for breaches of rules, &c.

Proviso.

11. Every visitor shall have power, and he is hereby required, to hear all complaints which shall be made by any prisoner respecting any deficiency of food, or of its being of an inferior or improper quality, or respecting any ill-treatment received from any keeper, turnkey, overseer, peon, or other officer of the prison; and if such complaint shall clearly be frivolous or malicious, it shall be lawful for such visitor to order (which order the keeper of the prison is hereby required to carry into effect) the confinement of such prisoner in a solitary cell for forty-eight hours, on such spare diet as aforesaid; and if any such visitor shall con-

Visitors to hear complaint made by prisoners.

sider any complaint respecting the quantity or quality of food, or of any ill-treatment, not being of a serious character, to be substantiated, he shall make report thereof to the Colonial Secretary; but if he shall consider that such ill-treatment is sufficiently serious to require the intervention of a court of justice, he shall immediately make report thereof to the Queen's Advocate or some Deputy Queen's Advocate.

Surgeon to report.

12. Whenever any surgeon shall be appointed by the Governor to visit any prison, such surgeon shall visit such prison twice at least in every week, and oftener if necessary, and shall see every prisoner confined therein, whether criminal or debtor, and shall report quarterly to the Colonial Secretary the condition of the prison and the state of health of the prisoners under his care, and he shall further keep a journal, in which he shall enter the date of every attendance in the performance of his duty, with any observations which may occur to him in the execution thereof, and shall sign the same with his name, and such journal shall be kept in the prison, but shall regularly be laid before the visitors for their inspection, and shall be signed by them in proof of the same having been there produced.

Fiscals to make returns.

13. The Fiscal of every province shall regularly make to the Colonial Secretary such returns as he shall from time to time be instructed to make by the Governor with the advice of the Executive Council.

Convicted prisoners to be liable for the costs of their maintenance.

14. Every convicted prisoner in any such prison shall be liable for all the costs of his maintenance therein; and it shall be lawful for any District Judge or Police Magistrate, upon presentation of any certificate at any time after the discharge or during the detention of any such prisoner of the costs of the maintenance of such prisoner up to the time of such presentation, or of any part thereof, signed by the proper Fiscal, and countersigned by some duly appointed visitor, to issue a warrant as often as shall be necessary for the distress and sale of so much of the property of such prisoner as shall be sufficient for the repayment to the Fiscal of such costs as shall be due, and of the costs of the distress and sale.

No prisoner to be a juror at an inquest.

15. In case any coroner or deputy coroner shall hold an inquest on the body of any prisoner who shall have died within the prison, none of the prisoners confined in that prison shall be a juror on such inquest.

Penalty on bringing spirituous liquors, &c. into prison.

16. If any person shall carry or bring, or attempt to carry or bring, into any prison any spirituous or fermented liquor, or any toddy, opium, or bang, every such person shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Punishment of prisoners escaping and of parties assisting in any escape.

17. If any person, whether a prisoner or otherwise, shall by any means whatsoever aid and assist any prisoner to escape or in attempting to escape, every such person, and every prisoner escaping or attempting to escape, whether an escape be actually made or not, shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment at hard labour for any period

not exceeding one year, or to corporal punishment not exceeding fifty lashes, or to both.

18. If any prisoner shall threaten or abuse, or in any way insult any keeper or other officer of the prison, he shall be guilty of an offence, and be liable, on conviction thereof, to any punishment which it shall be competent to any police court to inflict; and if any prisoner shall strike or do any personal injury to any such keeper or other officer, he shall be guilty of an offence, and be liable, upon conviction thereof, to such punishment as the court before which the Queen's Advocate shall institute or permit the institution of a prosecution for the same shall be competent to inflict.

Penalty on prisoner threatening or assaulting officer of prison.

19. All overseers and other persons lawfully in the superintendence or charge of prisoners under sentence of hard labour, and whose duty it shall be to see such hard labour duly performed, are hereby authorized and required to employ any moderate force, and inflict any moderate chastisement that may be necessary to compel any such prisoners under their charge to perform hard labour; and if any overseer or other person exercising such superintendence or charge shall permit any such prisoner to hold any communication whatever with any person, except such communication as shall be absolutely necessary for the execution of any labour or duty imposed upon such prisoner, it shall be lawful for the fiscal, or for any visitor, to direct that such overseer or person shall forfeit one month's wages that shall be then or may thereafter become due, and such month's wages shall thereupon be forfeited, and may be kept back.

When overseers may inflict moderate chastisement.

Penalty on overseer neglecting duty.

20. Every keeper or other officer of any prison who shall fail to exercise a proper vigilance over the prisoners committed to his charge, or to perform any duty imposed upon him by this Ordinance, or shall wilfully or carelessly disobey, neglect, or evade, or permit to be disobeyed, neglected, or evaded, any rule, regulation, or order lawfully made or provided in respect of any prison to which such keeper or officer shall be attached, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds, (which fine or any part thereof may be deducted from any salary then or at any time thereafter due to such offender,) or to imprisonment, with or without hard labour, for any period not exceeding one month.

Penalty on neglect of duty by officer of prison.

21. If any keeper, turnkey, overseer, peon, or other officer of any prison shall use any unnecessary or unauthorized violence towards any prisoner, or shall otherwise ill-treat any prisoner confined therein, he shall be guilty of an offence, and be liable, on conviction thereof, to any punishment which it shall be competent for the court before which the Queen's Advocate shall elect to prosecute, or to permit the prosecution of such offender, to impose.

Penalty on keeper, &c. employing unnecessary violence.

SCHEDULE A.

The prisons situated at the following places shall be respectively the prisons for the reception of prisoners of every description committed under the authority of any court, justice of the peace, or

coroner having jurisdiction within any part of the districts or limits set opposite the names of such places in this schedule :

Prisons.	Districts or Limits.
Wellikadde -	- The whole island.
Jaffna - -	- The Northern and Eastern Provinces.
Trincomalie -	- The Eastern Province.
Galle - -	- The Southern Province.
Matura - -	- The Southern Province.
Hambantotte -	- The Southern Province.
Kandy - -	- The Central Province, and the limits for the time being of the jurisdiction of the district courts of Kurnegalle and Kandy.

SCHEDULE B.

The prisons situated at the following places shall be respectively the prisons for the reception of prisoners of every description committed under the authority of any court, justice of the peace, or coroner having jurisdiction within any part of the district or limits set opposite the names of such places in the schedule, except of prisoners under sentence of some competent criminal court to imprisonment for a period exceeding three months ; but prisoners under such sentence may nevertheless be confined in such prisons until they can be conveniently removed elsewhere :

Prisons.	Districts or Limits.
Hulfsdorp in Colombo - -	The Western Province.
Negombo -	- The limits for the time being of the jurisdiction of the district court of Negombo.
Caltura - -	- The limits for the time being of the jurisdiction of the district court of Caltura, and of the police court of Bentotte.
Bentotte -	- The limits for the time being of the jurisdiction of the police court of Bentotte.
Ratnapoora -	- The limits for the time being of the jurisdiction of the district court of Ratnapoora.
Tangalle -	- The limits for the time being of the jurisdiction of the police court of Tangalle.
Chilaw, Putlam, Calpentyn -	- The limits for the time being of the jurisdiction of the district court of Chilaw and Putlam.
Manaar - -	- The limits for the time being of the jurisdiction of the district court of Manaar.
Anarajahpoora	- The limits for the time being of the jurisdiction of the district court of Nuwerakalawiaya.
Point Pedro -	- The limits for the time being of the jurisdiction of the police court of Point Pedro.

Prisons.	Districts or Limits.
Chawagacherry	The limits for the time being of the jurisdiction of the police court of Chawagacherry.
Mulletivoe	The limits for the time being of the jurisdiction of the police court of Mulletivoe.
Kayts	The limits for the time being of the jurisdiction of the police court of Kayts.
Batticaloa	The limits for the time being of the jurisdiction of the district court of Batticaloa.
Kurnegalle	The limits for the time being of the jurisdiction of the district court of Kurnegalle.
Kaigalle	The limits for the time being of the jurisdiction of the police court of Kaigalle.
Matelle	The limits for the time being of the jurisdiction of the district court of Matelle.
Newera-Ellia	The limits for the time being of the jurisdiction of the police court of Newera-Ellia.
Badulla	The limits for the time being of the jurisdiction of the district court of Badulla.

9th December 1844.

57.

No. 20 OF 1844.

An Ordinance to provide for the Total Abolition of Slavery in Ceylon.

WHEREAS the proprietors of slaves in this colony have almost universally failed to comply with the several enactments in force therein relative to the registration of slaves, and their slaves have in consequence become free; and it has therefore become practicable, without hardship to anyone, to provide for the total abolition of slavery in this colony: Preamble.

1. Slavery shall no longer exist in this colony, and all persons being slaves shall become free, and entitled in every way to all the rights and privileges of free persons, any other law or Ordinance to the contrary now in force notwithstanding. Slavery no longer to exist in this colony.

2. Repealing former laws.

20th December 1844.

58.

No. 21 OF 1844.

An Ordinance to make better provision for the disposal of Landed Property.

WHEREAS it is expedient that some uniform provision should be made with respect to testamentary dispositions of property: And Preamble.

whereas the undivided possession of landed property is productive of very injurious consequences to the inhabitants of this colony, and it is expedient to provide a remedy for the same in certain cases:

Parties may dispose of their property by will as they choose.

1. It shall be lawful for every person competent to make a will to devise, bequeath, and dispose of by will all the property within this colony which at the time of his death shall belong to him, or to which he shall be then entitled, of whatsoever nature or description the same may be, moveable or immoveable, and all and every estate, right, share, or interest in any property, and which if not so devised, bequeathed, or disposed of would devolve upon his heirs-at-law, executor, or administrator, to such person or persons not legally incapacitated from taking the same, as he shall see fit; and no will made either within or beyond the limits of this colony subsequently to the time when this Ordinance shall commence and take effect shall be or be liable to be set aside as invalid or inofficious, either wholly or in part, by reason that any person who by any law, usage, or custom, now or at any time heretofore in force within this colony, would be entitled to a share or portion of the property of the testator, has been excluded from such share or portion, or wholly disinherited by or omitted in such will; but every testator shall have full power to make such testamentary disposition as he shall feel disposed, and in the exercise of such right to exclude from the legitimate or other portion any child, parent, relative, or descendant, or to disinherit or omit to mention any such person, without assigning any reason for such exclusion, disinheritance, or omission, any law, usage, or custom now or heretofore in force in this colony to the contrary notwithstanding: Provided that nothing herein contained shall extend or be construed to extend to authorize or entitle any testator to dispose by will of any property or estate of his wife, or to exclude or deprive her of any life or other interest (belonging to her in her own right) in any property, and to which property, estate, or interest she would have been entitled if this Ordinance had not been passed.

Proviso.

At what age wills may be made.

2. No will made by any male under the age of twenty-one years, or by any female under the age of eighteen years, shall be valid, unless such person shall have obtained letters of Venia Œtatis, or unless such person shall have been lawfully married.

Governor may grant letters of Venia Œtatis.

3. The Governor of this colony for the time being shall have and enjoy within and over each and every district thereof all such rights and powers in respect of granting letters of Venia Œtatis as are now possessed and may lawfully be exercised by him within the maritime provinces thereof.

As to the validity of foreign wills.

4. Every will made beyond the limits of this colony containing any devise or disposition of immoveable property situate within this colony, which shall have been duly made and executed according to and in conformity with the forms and solemnities prescribed by the law of the country where the same shall have been so made and executed, by any person who by the law of such country or of this colony is competent to make a will, shall be valid and

effectual to alienate and pass the property in any immoveable property so devised or disposed of by any such testator; and every will duly made and executed in manner aforesaid, in any place beyond the limits of this colony, by any person who shall be competent to make a will by the law of the place where he shall be domiciled at the time of making and executing the same, shall be valid and effectual to alienate and pass the property in any moveable property by such will bequeathed or disposed of, anything contained in the Ordinance No. 7 of 1840, entitled "To "provide more effectually for the prevention of frauds and per-"juries," or any other law or custom to the contrary notwithstanding.

5. Every will re-executed or republished, or revived by any codicil, shall for the purpose of this Ordinance be deemed to have been made at the time at which the same shall be so re-executed or republished or revived.

As to the re-execution of wills.

6. In all cases of marriages contracted either within any part of this colony or abroad without a nuptial contract or settlement, the respective rights and powers of the parties during the subsistence of the marriage in and about the management, control, disposition, or alienation of any immoveable property situated in any part of this colony, which belonged to either party at the time of the marriage, or has been acquired during the coverture, and also their respective rights in or to such property, or any portion thereof, or estate or interest therein, either during the subsistence of the marriage, or upon the dissolution thereof, shall in all cases be determined according to the law of the matrimonial domicile; and that if the parties shall have entered into a nuptial contract or settlement by which their or either of their rights, powers, or interests in, to, or over any such property as aforesaid are ascertained and determined, or by which either party shall be declared entitled to a defined portion of or interest in the common estates, or to any provision by way of dowry or maintenance, or otherwise, out of the separate estate of the other of such parties during the subsistence of the marriage or at the dissolution thereof, that then and in any such case neither of the parties shall be entitled, upon the dissolution of the marriage, to any other or greater portion, interest, or provision in or out of any such property as aforesaid, than in and by such nuptial contract or settlement such party shall be declared entitled to, whether or not it shall be expressly stated therein that such portion, interest, or provision was in lieu of the right or interest which such party would otherwise have had in such property as aforesaid if such nuptial contract or settlement had not been made.

Effect of previous settlement.

7.–19. Repealed.

20. And for the avoiding of all doubts and questions as to the respective rights of persons jointly holding landed property situated within certain districts of this colony, it is further enacted and declared, that all landed property situated in this colony which shall belong to two or more persons jointly, whether the same shall have come to them by grant, purchase, descent, or

No survivorship as to property held in undivided shares, unless expressly stipulated for.

otherwise, is and shall be deemed and taken to be held by them in common, and upon the decease of any of such persons, the said property so jointly possessed shall not remain or belong to the survivor, but all the right, share, and interest of the person so dying in and to the property so jointly possessed as aforesaid shall form part of his estate; and the person or persons to whom the same shall by him be devised or bequeathed, or to whom it shall devolve, shall thereupon become and be co-proprietors with the survivor in the said property, in the proportion and according to the share of such deceased person therein, unless the instrument under which the said property is jointly held and possessed, or any agreement mutually entered into between them, shall expressly provide that the survivor, upon such decease, shall become entitled to the whole estate.

Interpretation of terms.

21. Whenever in this Ordinance the word "will" is used it shall be construed to extend to a testament and to a codicil, and to any other testamentary disposition; and whenever the words "landed property" are used, they shall be construed to extend to houses and buildings erected on the same, and to any estate, right, or interest (other than a chattel interest) therein; and whenever the word "representative" is used, it shall be construed to mean the party legally entitled to appear and act for and on behalf of another, as his guardian, tutor, curator, or attorney, as the case may be; and whenever any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

23rd December 1844.

59.

No. 13 OF 1845.

An Ordinance to regulate the Temporal Affairs of the Presbyterian Church in Kandy, in the Island of Ceylon.

Preamble.

WHEREAS by the Ordinance No. 1 of the present year 1845, entitled "An Ordinance to promote the building of places of "Christian worship, and to provide for the maintenance of "ministers of the Christian religion," it is amongst other things provided, that before any sum of money shall be issued from the Colonial Treasury for the erection of any place of worship, trustees shall be elected or appointed in such manner as shall be by any future Ordinance provided, in whom the real estate in the site of such place of worship or minister's dwelling, or both, as the case may be, and of any lands and hereditaments thereunto belonging, shall be vested upon such trusts as shall in such future Ordinance be declared: And whereas it is proposed to erect a Presbyterian

place of worship in the town of Kandy, and a dwelling house for the minister of such proposed place of worship has already been erected, and it is expedient that provision should be made, as well for the original nomination of trustees as for maintaining from time to time a proper number of duly qualified trustees, in manner herein-after mentioned, and for defining the manner in which the trusts hereby created shall be fulfilled, and otherwise for regulating the temporal affairs of the said Presbyterian church and minister's dwelling with lands and hereditaments as aforesaid:

Original trustees, how appointed.

1. The first or original trustees of the Presbyterian church aforesaid shall be elected and appointed in the manner following, that is to say, the persons who have subscribed towards the erection of the said place of worship and minister's dwelling, or any three or more of them, shall and may at any time after the passing of this Ordinance convene a meeting of the subscribers (of the time and place of holding which fourteen days notice shall have been previously published in the Government Gazette), at which meeting three persons shall be elected by majority of votes to act as trustees until Monday in the last week in December next ensuing after the said place of worship shall have been opened for Divine worship.

Trustees to rent out sittings in church.

2. On the completion of the said place of worship, and before or so soon as shall be practicable after the same shall have been opened for Divine service, the trustees then in office shall, except as herein-after excepted, rent out the sittings therein according to such general scale, and agreeably to such regulations for fixing the rates of seat rents, and other matters connected therewith, as shall have been agreed upon by the majority of subscribers present at the meeting held for the election of such trustees, or of any other meeting of subscribers to be specially convened by the said trustees for that purpose.

Annual meeting in December.

3. Upon Monday in the last week of every month of December after the said place of worship shall have been opened for Divine service, there shall be appointed for the year commencing on the first day of January then next ensuing three new trustees, of whom one shall be appointed by the minister of such place of worship for the time being, and two by a majority of the seatholders present at a meeting to be convened for that purpose by the trustees for the time being, and to be holden at such hour and place as shall be specified in a notice to be posted for that purpose in some conspicuous place in such place of worship for at least fourteen days previously to the day fixed for the holding of such meeting: Provided always, that nothing in this clause contained shall be construed to prevent the reappointment at any such meeting of all or any of the trustees who shall at the time of such meeting be actually in office; and provided further, that in case the minister shall fail to make such appointment, or the trustees shall fail to call such meeting, or in case at any time there shall not be any duly appointed trustee, it shall be lawful for the Governor and Executive Council to nominate so many persons as are required for completing the number of trustees to be trustees until the next ensuing annual meeting.

Vacancies in the office of trustee, how filled up.

4. In case of the death, incapacity, resignation, or departure from the island of any trustee appointed or elected under the provisions of this Ordinance before the expiration of the period for which he shall have been so appointed or elected, or in case any such trustee shall be absent from the colony, or be in a part thereof remote from the said place of worship for more than six months in succession, or shall be a confirmed lunatic, or shall be or become disqualified to act in such capacity, it shall be lawful for the remaining trustees to convene a special meeting of seatholders for the election of a new trustee or new trustees, as the case may be, to supply the vacancy or vacancies so created during the remainder of that period: Provided that no trustee shall be permitted to resign his office until he shall have duly accounted to the satisfaction of his co-trustees for all sums of money at any time received by him in his said trust; and provided also, that where any such vacancy shall in any year arise after the month of June, no such new appointment shall be necessary, but the powers which by this Ordinance are given to the trustees may, until the next annual meeting, continue to be exercised by the remaining trustees or trustee; and provided always, that if any such vacancy shall occur among the first or original trustees before the said place of worship shall have been opened for Divine service, it shall be lawful for the remaining trustees (subject to the approval of the Governor and Executive Council) to fill up the same.

Minister to be chairman at meetings of trustees.

5. The minister of the said church for the time being shall *ex officio* be entitled to be present at and to be the chairman of all meetings of the trustees, or other meetings concerning the affairs of the said church, and shall at all such meetings be privileged to vote upon any question concerning the affairs of the said church or concerning the minister's dwelling thereof; and in case there should at any such meeting be an equality of votes, the chairman, whether the minister or other person, shall have a casting vote; and the chairman of every meeting for the election of any trustees or trustee under any of the provisions of this Ordinance shall, after signing the minutes thereof, transmit the names of the persons or person so elected for the approval of the Governor and Executive Council.

Who may be a trustee.

6. Every person who shall be elected or appointed as trustee for the said Presbyterian church as aforesaid shall be a member of the congregation of the said church, either as a seatholder or a communicant, and above the age of twenty-one years, and any trustee ceasing to be either a seatholder or a communicant, as the case may be, shall be held *ipso facto* to have resigned his office, and thereupon a new trustee shall be elected in the manner provided by the fourth section of this Ordinance.

Objects of the trust.

7. The said first or original trustees, and all others who shall from time to time be hereafter elected as trustees under any of the provisions of this Ordinance, shall during the time of their continuance in office stand and be possessed of all the real estate in the site of such place of worship and minister's dwelling, and of the buildings constructed or to be constructed thereon, and of the lands and hereditaments thereunto belonging or appertaining, and

of all sums of money already given or subscribed towards the erection of the said place of worship or minister's dwelling, and of all such sums of money as shall at any time hereafter be granted to them from the Colonial Treasury, and of all such donations and subscriptions as shall at any time hereafter be given or subscribed for the purpose aforesaid, or in aid of the funds of the said church, and of all rents and revenues arising from the letting of pews or sittings, and of all fees and payments for vaults, monuments, tombstones, and the like, and of all rents and revenues arising out of any of the lands or hereditaments belonging or appertaining to the said place of worship or minister's dwelling or otherwise, upon trust in the first place, and until the said place of worship shall be erected and completed, to cause the same to be erected and completed according to such plan and specification thereof as shall be approved by the Governor and Executive Council, and after the completion of the said place of worship to inclose the ground surrounding the same, and the minister's dwelling which has been already erected, and to do other necessary works connected therewith; and also upon trust thereafter to pay and apply the said sums of money, donations, subscriptions, rents, fees, and revenues, for repairing, keeping up, and maintaining the said place of worship and minister's dwelling, and the said inclosure; and lastly upon trust to provide such articles as may be necessary for the proper celebration of divine service in the said place of worship, and to pay the salaries of the clerk, servants, and officers employed in and about the same.

Place of worship to be for ever holden for the purposes for which originally erected.

8. The said place of worship and minister's dwelling shall, with their respective appurtenances, be and continue to be for ever dedicated to the purposes and holden solely for the uses and be appropriated to the service of the religious denominations of Presbyterians adhering to the Westminster Confession of Faith, for which the same are or shall be originally erected.

Trustees to let pews and seats, and manage the temporalities.

9. It shall be lawful for the trustees for the time being, subject to such general rules as shall be from time to time established by the seatholders at any such annual meeting in December, to fix the amount which shall be payable for the rent of pews and seats in such place of worship, and the amount of fees which shall be payable for vaults, monuments, and tombstones, and to let such pews and seats (subject to all existing rights therein, if any,) in such manner and to such persons as they the said trustees shall think fit; and to appoint, suspend, and remove all church officers and servants employed in or about such place of worship (the minister's clerk or precentor excepted, who shall in each case be appointed and removed by the minister only), and generally to manage the temporalities of such place of worship, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid): And it is also hereby declared that the said trustees shall have no power or authority to appoint or dismiss the minister of such place of worship.

Two trustees to form a quorum.

10. The trustees for the time being shall upon all matters before them have each one vote, and any two of them shall form a quorum, and in the event of a difference of opinion between such

trustees on any occasion, the votes of any two of them (where three are present) shall be binding upon all; or in case of an equality of votes when the trustees and the minister are all present, the minister shall possess a casting vote; and the trustees for the time being shall have power from time to time to make byelaws (such laws not being inconsistent with or repugnant to this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors until abrogated or altered by such successors.

Auditors to be elected at annual meeting.

11. At every meeting held in the last week of December as aforesaid for the appointment of trustees after the said place of worship has been opened for Divine service, two indifferent persons shall be elected by and out of the seatholders to be auditors of the accounts of the trustees then about to quit office, and in the month of January following the trustees who have so quitted office shall cause a true and particular account of their receipts and expenditure during the period they have held office, duly audited and signed by the auditors, to be transmitted to the Governor, in order that, should it be deemed expedient by him, the same may be published in the Government Gazette for general information.

Minister to have right of access to church, and use of house.

12. It shall and may be lawful for the minister of the said church for the time being to have free access and admission to the said church, and the burial ground belonging thereto and every part thereof, at all times as he shall think fit, and freely to exercise his spiritual functions therein, without any hindrance or disturbance of the trustees of the same or any person whatever; and such officiating minister shall or may, during such time as aforesaid, freely use, have, possess, and enjoy the minister's dwelling house and appurtenances belonging to the said church, and shall or may, with the consent of the trustees for the time being, but not otherwise, let the said dwelling house and appurtenances to any other person: Provided that no such liberty of access and admission to such house of residence as aforesaid, nor occupation of the same, for any length of time whatever, shall be construed to confer any right of property in the same upon the said minister or other parties by whom such dwelling house and the appurtenances may have been so occupied, nor any right or title to retain possession of the same after such minister shall have been removed from his office, or after his resignation thereof, or during his absence from the colony or suspension from his office, nor shall the same be pleaded in bar of any ejectment which may be brought by or on behalf of the trustees of the church as aforesaid for recovering possession of such house of residence and the appurtenances thereof.

Such possession not to confer right of property.

Trustees may sue and be sued.

13. It shall be lawful for the trustees for the time being to call in and compel the payment of all sums of money which are or at any time hereafter shall be due and payable to them under and by virtue of any of the provisions of this Ordinance, and in their own names to make and enter into, perform, and execute, and compel the performance and execution of all such contracts and agreements, matters and things, and to commence and maintain all such

suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them, in the name of "the trustees of the Presbyterian Church at Kandy" (*describing the place of worship by its name after it shall have been named*), without specifying the christian or surnames of the trustees; and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits or actions the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done, or performed, by the said trustees in the execution of the said trust, shall be brought by such person against the trustees under the name and title aforesaid, nor shall any trustee, by reason of his being a plaintiff or defendant in any such suit, be prevented from being a witness therein.

Right of voting at meetings.

14. The right of voting at every meeting convened in respect of such place of worship shall, until the said place of worship shall be opened for Divine service as aforesaid, be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such meeting; and from and after such time as the said place of worship shall have been so opened the right of voting at every annual meeting shall be vested in renters of sittings in the said place of worship who shall have duly paid up their rent: Provided always, that no such subscriber or renter of sittings shall on any occasion be allowed to give more than one vote, or to give any vote except in person; and provided that no person shall be entitled to vote who shall not be a male of at least twenty-one years of age.

Trustees to take grants of lands.

15. It shall be lawful for any trustees appointed or elected under the provisions of this Ordinance to accept or take from persons willing to give the same, or from the Crown, subject to the provisions of any law now or hereafter to be in force relative to such gifts, any lands or premises adapted for the site of the place of worship to be erected under the provisions of this Ordinance, or of a minister's dwelling, with a garden and other appurtenances thereunto, or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such place of worship or of the ministers thereof, and such land or premises so given shall be deemed and taken to be for ever vested in the trustees of such place of worship for the time being in trust for the purposes thereof.

Free sittings reserved.

16. On the completion of the said church one-sixth part of the whole number of sittings therein shall be appropriated to the use of the poor as free sittings; and if at any future period the number of sittings in the said church shall be increased, there shall be appropriated to the use of the poor so many additional free sittings as that the number of free sittings shall always bear the same proportion to the whole number of sittings as is hereinbefore provided.

Certain conditions of former

17. And whereas in the aforesaid cited Ordinance it is provided that no sum of money shall be issued from the Colonial Treasury

Ordinance declared to be fulfilled.

until the whole amount required to be furnished by subscription shall have been deposited in the Colonial Treasury, nor until a specification and plan of the intended place of worship or minister's dwelling, or both, as the case may be, shall have been submitted to the Governor and the Executive Council and approved of by them : And whereas in the case of the Presbyterian church in Kandy it has been made evident that the subscribers have completed the erection of a minister's dwelling, and have expended therein the sum of six hundred and ten pounds : It is hereby enacted, that the said conditions, so far as relates to the minister's dwelling, shall be regarded as having been fulfilled, and the said sum of six hundred and ten pounds shall be and is hereby held to have been paid into the Colonial Treasury.

Ordinance to be deemed a public one.

18. This Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of as such by all judges, magistrates, and others without being specially pleaded.

12th December 1845.

60.

No. 3 OF 1846.

For improving the Law of Evidence in this Colony.

Preamble.

WHEREAS it is expedient that the improvements from time to time made in the law of evidence in force in that part of the United Kingdom of Great Britain and Ireland called England should be introduced into the law of evidence in force in this colony ; and it is also expedient to alter, amend, and declare in certain respects the law of evidence within this colony :

1. Repealing clause.

Law of evidence of England to be the law of evidence of this colony.

2. Except in so far as is herein-after excepted and provided, all such evidence shall be admissible, and such and no other evidence shall be required for the proof of any act, matter, or thing whatsoever, in any action, suit, prosecution, matter, or proceeding depending in any of the courts of this colony as would at the same period be admissible or be required for the proof of any act, matter, or thing in any similar action, suit, matter, or proceeding depending in any of Her Majesty's courts of record of Westminster, whether of equity or law ; and no evidence shall be admissible in any action, suit, prosecution, matter, or proceeding depending in any of the courts of this colony which would not at the same period be admissible in any similar action, suit, prosecution, matter, or proceeding depending in any of Her Majesty's said courts of record of Westminster.

Provision as to the requisitions of particular modes of proof by any Ordinance in

3. Where by any regulation or Ordinance in force within this colony provision has been or shall hereafter be expressly made touching the nature, quality, admissibility, or effect of the evidence to be adduced in proof of the execution of any will, deed, or instrument, or in proof of any matter or thing whatsoever ; or

touching the examination of the parties to civil suits; or in any other way prescribing or regulating any matter of evidence, such Regulation or Ordinance shall be and be deemed and taken to be the law of evidence of this colony in respect of the matters and things therein expressly provided for, anything contained in the law of evidence of England in relation thereto to the contrary notwithstanding. force in this colony.

4. Repealed.

5. The several practical rules and provisions forming part of or incorporated with the law of evidence of England touching the attendance of witnesses, the method of enforcing such attendance, the payment of the expenses of witnesses, the remedies for the non-attendance of witnesses, and the like, as also touching the inspection of public writings and of private documents; as also touching bills of exceptions and demurrers to evidence; and also relating to matters of pleading and practice, which are now or shall hereafter be regulated by any general rule or rules of practice which have been or may hereafter be lawfully and duly made and promulgated by the judges of the Supreme Court, or by any other competent authority, are not and shall not be considered as introduced by this Ordinance into, or by the authority thereof as hereafter forming part of the law of evidence of this colony. Certain practical rules of the law of Evidence of England not hereby introduced into the law of Evidence of this colony.

6. No evidence shall be holden to be inadmissible or be rejected by reason of any objection founded upon the religious belief or opinions of any person having given or being about to give the same, anything in the law of evidence of England to the contrary notwithstanding, and that if upon the production of any person to be sworn before any court it shall appear to such court, upon objection being taken or otherwise, that the evidence of such person would not be admissible according to the law of England by reason of his religious belief or opinions, such court shall and may direct such person to make a solemn affirmation or declaration in lieu of being sworn, in such and the same manner as persons not professing the christian religion and certain other persons are required to make a solemn affirmation or declaration in lieu of making oath by the Ordinance No. 3 of 1842, entitled "For the substitution of solemn affirmations in lieu of oaths in "certain cases," and every such solemn affirmation or declaration shall be of the same force and effect as an oath; and every person who having made such solemn affirmation or declaration shall wilfully give false evidence shall be guilty of an offence, and be liable, on conviction thereof, to such and the same punishment as if such person had been convicted of perjury, and every party causing or procuring any such person to give such false evidence shall be guilty of an offence, and be liable, on conviction thereof, to such and the same punishment as if such party had been convicted of subornation of perjury. Religious opinions, &c. no ground of incompetency in a witness.

7. It shall be lawful to and for each of the courts of record of this colony, and the several judges thereof, in every civil suit or proceeding depending in such court, upon the application of any of the parties to such suit or proceeding, to order the examina- Mode of examination of witnesses upon interrogatories and otherwise.

tion upon interrogatories, or *vivâ voce*, before such person or persons as shall be named in such order, of any of the other parties to such suit or proceeding, or of any witnesses residing or being within the jurisdiction of the court where the suit or proceeding shall be depending, or to order a commission to issue to such person or persons as shall be named therein for the examination upon interrogatories or *vivâ voce* of the other parties to such suit or proceeding, or of any witnesses resident or being at any place or places out of such jurisdiction; and by the same or any subsequent order or orders to give all such directions touching the time, place, and manner of such examinations, as well within the jurisdiction of the court wherein the suit or proceeding shall be depending as without, and all other matters and circumstances connected with such examinations as may appear reasonable and just; and every examination so taken as aforesaid shall be certified under the hand of the commissioners or other person or persons taking the same, and by him or them delivered or transmitted, together with any writings or documents which may have been produced by the parties or witnesses so examined, in a sealed envelope or cover to the court by which, or by the judge of which, the order or commission was made or issued; provided that no informality or irregularity in the mode of delivery or transmission to the court of such examination shall constitute a valid objection to the reading and receiving of such examination as evidence at the trial.

Compelling attendance of witnesses or production of documents.

8. When any order shall be made by authority of this Ordinance for the examination upon interrogatories or *vivâ voce* of parties or witnesses resident or being within the jurisdiction of the court making the same, it shall be lawful for such court, or any judge thereof, in and by the first or any subsequent order to be made in the matter, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to direct the attendance of any such person to be at his own place of abode, or elsewhere, if necessary or convenient so to do; and the wilful disobedience of any such order shall be deemed a contempt of court, and proceedings may be had thereupon as in other cases of contempt if, in addition to the due service of the order, an appointment of the time and place of attendance in obedience thereto, signed by the person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such order, and a reasonable time before the time of attendance so appointed; provided always, that every witness whose attendance shall be so required shall be entitled to the like payment for travelling expenses as upon attendance at a trial; and provided also, that no person shall be compelled to produce under any such order any writing or other document that he would not be compellable to produce at a trial of the cause.

Examinations of witnesses to be upon oath or affirmation.

9. It shall be lawful for every person authorized to take the examination of witnesses by any order or commission made or issued in pursuance of this Ordinance, and he is hereby authorized

and required, to take all such examinations upon the oath of the witnesses, or their affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized, or by any judge, magistrate, or justice of the peace for the district or place where such witnesses are resident; and if any person making such oath or affirmation shall thereafter wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury.

Persons giving false evidence to be deemed guilty of perjury.

10. It shall be lawful for the person or persons named in such order or commission as aforesaid, and he or they are hereby required, to make, if need be, a special report to the court touching such examination, and the conduct or absence of any party, witness, or other person thereon or relating thereto; and the court is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require and as may be instituted and made in any case of contempt of the court.

Persons taking examination to report upon the conduct or absence of witnesses if necessary.

11. Every order to be made for the examination of parties or witnesses by virtue of this Ordinance, and of the proceedings thereupon, shall be costs in the cause, unless otherwise directed either by the judge making such order, or by the judge before whom the cause may be tried, or by the court.

Costs of the order for examination.

12. No examination or deposition of any witness to be taken by virtue of this Ordinance shall be read in evidence at any trial without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the court that such party, or his attorney or agent, had due notice in writing of the time and place appointed for taking such examination, and unless the examinant or deponent is beyond the jurisdiction of the court, or dead, or unable from permanent sickness or other permanent infirmity to attend the trial; and no statement of a party to be taken by virtue of this Ordinance shall be read in evidence at any trial unless it shall appear to the satisfaction of the court that such party is beyond the jurisdiction of the court, or unable from permanent sickness or other permanent infirmity to attend the trial, in all or any of which cases the examination and depositions or statement, certified under the hand of the commissioner or other person or persons taking the same, shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions.

Restriction as to reading of examinations without consent of the adverse party.

13. Whenever any official paper or document belonging to or preserved in any of the public offices of the Government of this colony shall be produced in evidence before any court thereof, such court, after the original shall have been inspected by the parties to the action, suit, prosecution, or proceeding in which the same shall be so produced in evidence, and by the court, and after the examination of the officer or other person producing the same, shall cause a copy thereof to be made and certified as a true copy by the secretary or clerk of such court, and to be filed instead of the original, which shall be forthwith returned to the officer or

Official papers to be returned to party producing them, and copy thereof to be filed.

other person producing the same; and in all future proceedings in the said action, suit, prosecution, or proceeding the copy so made, certified, and filed shall be received and read in evidence, saving all just exceptions which might be made to the receiving and reading in evidence of the original paper or document.

9th January 1846.

61.

No. 6 OF 1846.

An Ordinance relative to Malicious Injuries, and to certain Thefts of Property.

Preamble.

WHEREAS it is necessary to make more effectual provision for the protection of property within this colony against malicious injuries and thefts:

Penalty on tumultuously pulling down houses, &c.

1. If any persons riotously and tumultuously assembled together to the disturbance of the public peace shall unlawfully and with force demolish, pull down, or destroy, or begin to demolish, pull down, or destroy, any house, stable, coach-house, outhouse, warehouse, office, shop, mill, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any building used as a store, or any church, chapel, or place for religious worship, every person so offending shall be guilty of an offence, and be liable, on conviction thereof, to transportation, or to imprisonment at hard labour for any period not exceeding fifteen years, and if a male to corporal punishment not exceeding one hundred lashes.

On burning houses, &c.

2. Every person who shall unlawfully and maliciously set fire to any house, with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of an offence, and be liable, on conviction thereof, to suffer death; and every person who shall unlawfully and maliciously set fire to any church, chapel, or place for religious worship, or to any house, stable, coach-house, outhouse, warehouse, office, shop, mill, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any building used as a store, whether the same or any of them respectively shall then be in the possession of the offender or in the possession of any other person, with intent thereby to defraud or injure any person, shall be guilty of an offence, and be liable, on conviction thereof, to transportation or to imprisonment at hard labour for any period not exceeding fifteen years, and if a male to corporal punishment not exceeding one hundred lashes.

On setting fire to ships, &c.

3. Every person who shall unlawfully and maliciously set fire to, cast away, or otherwise destroy any ship, vessel, dhoney, barge, canoe, or boat of any description, with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of an offence, and be liable, on conviction thereof, to suffer death; and every person who shall unlawfully and

maliciously set fire to, cast away, or otherwise destroy, or damage with intent to destroy or to render useless, any ship, vessel, or dhoney, whether the same shall be in a complete or unfinished state, or with intent to prejudice any person, shall be guilty of an offence, and be liable, on conviction thereof, to transportation, or to imprisonment at hard labour for any period not exceeding seven years, and if a male to corporal punishment not exceeding one hundred lashes; and every person who shall maliciously cut away, cast adrift, remove, alter, deface, sink, or destroy, or in any other way injure or conceal any buoy, buoy-rope, or mark belonging to any ship, vessel, or dhoney, or which may be attached to any anchor or cable belonging to any ship, vessel, or dhoney whatever, whether in distress or otherwise, or any buoy, or any mark or beacon whatever, placed at sea or on shore to indicate the course of navigation, or to point out a shoal or other dangerous place, or a convenient place for anchorage, shall be guilty of an offence, and be liable, on conviction thereof, to transportation, or to imprisonment at hard labour for any period not exceeding seven years, and if a male to corporal punishment not exceeding one hundred lashes.

On setting fire to boats, &c.

4. Every person who shall unlawfully and maliciously set fire to, or otherwise destroy or render unserviceable or dangerous, any barge, canoe, or boat of any description, shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding one year, and if a male to corporal punishment not exceeding fifty lashes.

On destroying ships in distress or stranded, &c.

5. Every person who shall unlawfully and maliciously destroy any part of any ship, vessel, or dhoney which shall be in distress, or be stranded, or cast on shore, or who shall unlawfully and maliciously destroy, or who shall steal any goods, merchandise, or articles of any kind belonging to such ship, vessel, or dhoney, shall be guilty of an offence, and be liable, on conviction thereof, to transportation, or to imprisonment at hard labour for any period not exceeding seven years, and if a male to corporal punishment not exceeding one hundred lashes.

On doing anything whereby any ship may be brought into danger.

6. Every person who shall unlawfully and maliciously do anything tending to bring any ship, vessel, or dhoney into danger, or tending to the immediate loss or destruction of any ship, vessel, or dhoney in distress, any person being on board thereof, shall be guilty of an offence, and be liable, on conviction thereof, to suffer death.

Four preceding clauses not to extend to offences committed at sea.

7. The provisions of the third, fourth, fifth, and sixth clauses of this Ordinance do not, and shall not be construed to extend to offences of the description therein specified if committed at sea, and not within the jurisdiction of the Supreme Court of this island.

Injury to machines engines, &c. employed in manufactures.

8. If any person shall unlawfully and maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any machine or engine, whether fixed or moveable, prepared for or employed in any manufacture whatsoever, or in any branch thereof, or for any agricultural purpose, or shall by force enter into any house, shop, building, or place, with intent to commit any such offence, every such person shall be liable, on conviction, to

transportation, or to imprisonment at hard labour for any period not exceeding seven years, and if a male to corporal punishment not exceeding one hundred lashes.

By workmen to goods intrusted to them.

9. If any artificer, workman, journeyman, apprentice, servant, or labourer shall wilfully and unlawfully damage, spoil, or destroy any goods, articles, wares, or work committed to his care or charge, without the consent of the person by whom or on whose account he shall be hired, engaged, or employed, every such person shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds, or to imprisonment with or without hard labour for any period not exceeding three months, or to both of such punishments; and if any person shall be convicted a second time or more often of an offence against this clause, he shall, on every such subsequent conviction, be liable to a fine not exceeding ten pounds, or to imprisonment with or without hard labour for any period not exceeding six months, or to both of such punishments.

To sea banks, &c., whereby lands overflowed.

10. If any person shall unlawfully and maliciously break down or cut down any sea bank or sea wall, or the bank or wall of any river, canal, or marsh, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously throw down, level, undermine, or otherwise destroy any lock, sluice, flood gate, or other work on any navigable river or canal, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding three years, and if a male to corporal punishment not exceeding one hundred lashes.

To bridges, &c.

11. If any person shall unlawfully and maliciously pull down, or in anywise destroy any public bridge, or do any injury with intent and so as thereby to render such bridge, or any part thereof, dangerous or impassable, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding three years, and if a male to corporal punishment not exceeding one hundred lashes.

To cattle.

12. If any person shall unlawfully and maliciously kill, maim, or wound any cattle, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment at hard labour for any period not exceeding three years, and if a male to corporal punishment not exceeding one hundred lashes.

Injury to stacks, plantation, and crops by fire.

13. If any person shall unlawfully and maliciously set fire to, or demolish, pull down, or destroy, or begin to demolish, pull down, or destroy, any stack consisting altogether or principally of grain, pulse, straw, hay, coals, megas or cane stalks set apart for fuel, charcoal, or wood, or if any person shall unlawfully and maliciously set fire to any crop of grain or pulse, whether standing or cut down, or to any part of a wood or coppice, or to any plantation whatsoever, every such person shall, on conviction of such offence, be liable to imprisonment with or without hard labour for any period not exceeding seven years, and if a male to corporal punishment not exceeding one hundred lashes.

Malicious Injuries, &c.

14. Every person who shall unlawfully and maliciously cut, break, bark, root up, or otherwise destroy or damage the whole or any part of any one or more trees, saplings, bushes, shrubs, or sugar canes, or of any cocoa nut or other palm plants, shall, if the same shall be growing in any enclosed plantation, garden, compound, or pleasure ground, or if the damage done to the same, wherever they may be growing, shall exceed one pound, be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding one year, and if a male to corporal punishment not exceeding fifty lashes; and every person who shall unlawfully and maliciously commit any such injury as in this clause mentioned to any property therein above specified, and not growing in any enclosed plantation, garden, compound, or pleasure ground, shall, if the damage done be less than one pound, be guilty of an offence, and liable to any punishment which it shall be competent to a police court to inflict. To trees, &c. in plantation.

15. If any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any plant, root, fruit, or vegetable production growing in any enclosed garden, nursery ground, or compound, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding three months, and to a fine not exceeding five pounds; and if any person so convicted shall afterwards commit any of the said offences, such person shall be liable on every subsequent conviction to imprisonment with or without hard labour for any period not exceeding twelve months, and to payment of a fine not exceeding ten pounds. To fruits and plants growing in gardens.

16. If any person shall unlawfully and maliciously destroy, or damage with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or enclosed, not being a garden, compound, or nursery ground, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding fourteen days, or to a fine not exceeding one pound; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted in like manner, every such person shall be liable on every subsequent conviction to imprisonment with or without hard labour for any period not exceeding three months, or to a fine not exceeding five pounds. To plants, &c. used for food or medicine, &c. and not in gardens, &c.

17. If any person shall unlawfully and maliciously cut, break, throw down, or in anywise destroy any live or dead fence of any description whatsoever, or any wall, stile, or gate, or any part thereof respectively, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour for any period not exceeding one month, or to a fine not exceeding one pound, or to both of such punishments; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such person shall, on every subsequent conviction, be liable to imprisonment with or without hard labour for any To fences, &c.

period not exceeding six months, or to a fine not exceeding ten pounds, or to both of such punishments.

To carriages, &c.

18. Every person who shall wilfully and maliciously cut, scratch, or otherwise deface or injure any painted or varnished carriage, bandy, or other vehicle, shall be guilty of an offence, and be liable, on conviction thereof, to any punishment which it shall be competent to a police court to impose.

Punishment of malicious injuries not specially treated of herein.

19. If any person shall wilfully or maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no remedy or punishment is herein or otherwise by express law provided, every such person shall be guilty of an offence, and liable, on conviction thereof, to any fine not exceeding five pounds, or to imprisonment with or without hard labour for any period not exceeding three months, or where the Queen's Advocate or any competent Deputy Queen's Advocate shall consider that the offence is deserving of a higher punishment, to such punishment as the court before which the Queen's Advocate or such Deputy shall bring or authorize such offender to be brought for trial shall be competent to inflict.

Proviso as to trespasses in sporting.

20. Nothing in this Ordinance contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, nor to any trespass, not being wilful and malicious, committed in hunting, or in the pursuit of any other sport or diversion, but every such trespass shall be punishable, if punishable at all, in the same manner as before the passing of this Ordinance.

Penalty on damage to property mentioned in 13th, 14th, 15th, and 16th clauses, with intent to steal.

21. If any person shall steal, or shall destroy, or damage with intent to steal, the whole or any part of any tree or other thing, for a malicious injury to which a penalty is provided in the fourteenth, fifteenth, sixteenth, and seventeenth clauses of this Ordinance, every such person shall be guilty of an offence, and be liable, on conviction thereof, to the same punishment to which he would have been liable if he had been convicted under any of the provisions of any of the said clauses of a malicious injury to such tree or other thing.

Penalty on stealing or maliciously injuring records, &c.

22. If any person shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall conceal, or shall unlawfully and maliciously obliterate, injure, or destroy any record, original process, deposition, statement, proceeding, or other document whatsoever of, or belonging to, or being in the lawful custody of any court of record, or of any justice of the peace, or coroner, or relating to any matter, civil or criminal, begun, depending, or terminated in any such court, or if any person shall, during the life of the testator or testatrix, or after his or her death, steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall conceal, or unlawfully and maliciously obliterate, injure, or destroy any will, codicil, or testamentary instrument, (whether the same shall relate to real or personal estate, or to both,) or any paper, or parchment, talpat, or olah written or printed, or partly written or partly printed, being

evidence of the title, or of any part of the title, to any real estate or any security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, or in any fund of any body corporate, company, or society, or to any deposit in any savings bank, or any debenture, deed, bond, bill, note, or other security whatsoever for money, or for payment of money, whether of Great Britain or of Ireland, of this island or of any colony or country within Her Majesty's dominions, or of any foreign state, or any warrant or order for the delivery or transfer of any goods or valuable thing, every such person shall be guilty of an offence, and be liable, on conviction thereof, to transportation, or to imprisonment with or without hard labour for any period not exceeding seven years, and if a male to corporal punishment not exceeding one hundred lashes.

Proviso that offences mentioned in two preceding clauses may be prosecuted as before the passing of this Ordinance.

23. Nothing in the two preceding clauses contained shall be construed to interfere with or supersede any law or custom by which any offence referred to in the said clauses would have been punishable before the passing of this Ordinance ; but every such offence may be prosecuted and punished either under the provisions of this Ordinance or under the authority of such law or custom.

Where doubtful whether injury is malicious or done with intent to steal.

24. It shall be lawful to charge any person who shall have committed any wilful injury to property in the same indictment, information, or complaint, in the alternative with having committed such injury unlawfully and maliciously, or with having committed it with intent to steal.

Offender sentenced to imprisonment and fine may, at expiration of imprisonment, be further detained in default of payment.

25. Where any person shall be liable on conviction of any offence against this Ordinance to the payment of any fine and to imprisonment, and he shall not have paid such fine before the expiration of his term of imprisonment, he shall be detained in prison for such further period after the expiration of such term as by any law now or hereafter to be in force he may be detained for default or payment of such fine.

Malice against the owner not essential to any offence under this Ordinance.

26. Every punishment and forfeiture by this Ordinance imposed on any person maliciously committing any offence shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

Punishment of principals in the second degree and accessories.

27. In the case of every offence punishable under this Ordinance, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Ordinance punishable, and may be charged in the indictment, information, or complaint, as a principal in the first degree ; and every accessory after the fact to any offence punishable under this Ordinance shall, on conviction, be punishable at the discretion of the court.

For all offences within this Ordinance punishable with imprisonment, the court may order solitary confinement and chains.

28. Where any person shall be convicted before the Supreme Court of any offence punishable under this Ordinance, for which imprisonment may be awarded, it shall be lawful for the court to direct that the offender shall be kept in chains for the whole or any portion of such imprisonment, and also, if the court shall think fit, in solitary confinement: Provided always, that the period of such solitary confinement shall not exceed twenty-eight

days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement.

Persons in the act of committing any offence against this Ordinance may be arrested without warrant.

29. All persons found committing any offence against this Ordinance may be immediately apprehended, without a warrant, by any peace officer, or the owner of the property injured, or his servant, or any person authorized by him, and forthwith taken before some competent court of justice of the peace, to be dealt with according to law.

Punishment of children for offences against this Ordinance.

30. It shall be competent to the police magistrate before whom any male child shall be convicted of any offence punishable under the provisions of this Ordinance by one or both of the punishments of fine and imprisonment, to order the moderate chastisement of such child, instead of subjecting him to either of such punishments.

Persons under sentence of transportation to be imprisoned at hard labour in chains.

31. If any person, upon being convicted of any offence against this Ordinance, shall receive sentence of transportation, it shall be competent to the judge by whom such sentence shall be awarded, and he is hereby required, to direct in such sentence that the party convicted shall be imprisoned at hard labour, and with or without chains, in the gaol for the place where such conviction shall have been obtained, or such other gaol as the Governor shall at any time appoint, until such time as the said sentence of transportation can conveniently be carried into effect: Provided always, that no person so sentenced to transportation shall be imprisoned as aforesaid for a longer period than the period for which he was sentenced to be transported, and that the period of his imprisonment shall always reckon as part of and be deducted from the appointed term of transportation.

Evidence of the party aggrieved admissible.

32. Evidence of the party aggrieved shall be admissible in proof of any offence against this Ordinance.

27th June 1846.

62.

No. 8 OF 1846.

For rendering the operation of Rules of Court contingent on their enactment by the Legislature.

Preamble.

WHEREAS by divers laws in force within this colony it is provided that all rules, orders, and regulations to be made by the judges of the Supreme Court collectively shall be published in the Government Gazette, and otherwise promulgated in the most public and authentic manner as long before the same shall operate and take effect as to such judges may appear practicable and convenient, and shall forthwith be transmitted to Her Majesty, Her heirs and successors, under the seal of the said court, for Her or their approbation or disallowance: And whereas it would be conducive to the better administration of justice that the operation of all such rules, orders, and regulations should be contingent on their enactment by the Legislature, and that the approbation or

disallowance by Her Majesty, Her heirs and successors, of such rules, orders, and regulations should hereafter be made known and declared by means of the confirmation or otherwise by Her Majesty, Her heirs and successors, of the Ordinances by which the same shall have been enacted:

Rules of court to be transmitted to the Governor.

1. It shall be the duty of the judges of the said Supreme Court, and they are hereby required, so soon as any general rule, order, or regulation has been framed by them after the passing of this Ordinance, by virtue and in pursuance of the powers and authority vested in them by the charter or letters patent of His late Majesty King William the Fourth, dated the eighteenth day of February one thousand eight hundred and thirty-three, or by the Ordinance No. 10 of the year 1843, entitled "An Ordinance for the establishment of courts of inferior civil "jurisdiction, to be called Courts of Requests," or by the Ordinance No. 11 of the year 1843, entitled "An Ordinance "for the establishment of Police Courts," or by any other law or Ordinance which shall have been or shall hereafter be duly made in that behalf, to transmit every such rule, order, or regulation under their hands, and the seal of the said court, to the Governor or to the officer for the time being administering the government of this colony; and it shall not hereafter be necessary for the said judges to transmit any such rule, order, or regulation to Her Majesty, Her heirs or successors, for Her or their approbation or disallowance, anything contained in the said charter, or in either of the said Ordinances, or in any other law or Ordinance heretofore enacted, to the contrary notwithstanding.

Rules of court not to take effect until confirmed by Ordinance.

2. Whenever any such rule, order, or regulation shall have been transmitted to the Governor or officer administering the government of this colony in manner aforesaid, the same shall by him be laid with all convenient despatch in the form of an Ordinance before the Legislative Council thereof, to be considered and dealt with by the said council in such and the same manner as any other Ordinance, and no such rule, order, or regulation shall operate or take effect until the same shall have been duly enacted, anything contained in the said charter, or in either of the said Ordinances, or in any other law or Ordinance, to the contrary notwithstanding.

If Ordinance disallowed, rules thereby confirmed to cease to have operation.

3. If any such Ordinance shall be disallowed by Her Majesty after the same shall have taken effect and had its operation in this colony, any rule, order, or regulation which shall have been thereby enacted shall cease to have operation and to take effect, from and after the notification by the Governor or officer administering the government of this colony, in the Government Gazette, of Her Majesty's disallowance thereof.

All existing rules to continue in force.

4. And whereas divers rules, orders, and regulations have heretofore from time to time been made by the said judges under and by virtue and in pursuance of the powers and authorities vested in them by the said charter and Ordinances respectively, and it is expedient that the authority or validity of the said rules, orders, and regulations shall not be rendered doubtful: It is therefore further enacted, that all rules, orders, and regulations heretofore

made by the said judges as aforesaid, and which have been duly transmitted to His late Majesty King William the Fourth, or to Her present Majesty as aforesaid, and have not been disallowed by His said late Majesty or by Her present Majesty, shall be and the same are hereby confirmed: And it is hereby declared, that all the said rules, orders, and regulations, so far as the same or any of them have not been revoked or altered by other rules, orders, and regulations made, promulgated, and transmitted, and not disallowed as aforesaid, are and shall be of force, and shall continue to have operation and take effect in such and the same manner and to the same extent as if this Ordinance had not been passed.

6th October 1846.

63.

No. 11 of 1846.

For establishing a Toll on the road from Kadooganava to the Gadadessa Estate, in the Central Province.

Preamble.

Whereas a carriage road leading from the high road between Colombo and Kandy, at or near the present rest house at Kadooganava, to a point on the Gadadessa river adjoining the estate called Gadadessa, has been made by the proprietors of the several estates mentioned in the schedule annexed to this Ordinance marked A., at the cost of a sum of three thousand eight hundred and nine pounds and one shilling, subscribed by them for that purpose in the proportions therein specified: And whereas it is expedient that the said road should be kept in good order and repair for the use of the present and future proprietors of the said estates, and of all other persons frequenting those parts, and that the amount so subscribed and the interest thereof should be repaid to the parties at whose expense the said road has been made:

Trustees may put up toll bar, and take tolls.

1. It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance it shall be lawful for the trustees herein-after mentioned, and for all other persons duly appointed trustees of such road, under the provisions of this Ordinance, and they are hereby authorized and empowered, to put up, erect, and build, or cause to be put up, erected, and built, in, upon, or across the said road, or any part thereof, at such place as they shall judge necessary, such toll gate or toll bar as to the said trustees may appear necessary for the due collection of the tolls herein-after mentioned; and that it shall also be lawful for the said trustees, or any person appointed by them collector of the tolls to be taken by virtue of this Ordinance, and they are hereby authorized and empowered, to demand and take every day (such day, for the purposes of this Ordinance, being computed from twelve of the clock at night to twelve of the clock of the

next succeeding night) the tolls mentioned and set forth in the schedule hereunto annexed marked B., at such toll gate or toll bar as shall be erected by virtue of this Ordinance.

Trustees appointed.

Vacancies, how supplied.

2. George Crabbe, James Smith, and Joseph Read shall be, and they are hereby declared and appointed to be, the first or original trustees for the purposes of this Ordinance; and that in case of the death, incapacity, or resignation of any of the said trustees it shall be lawful for the proprietors of the said estates for the time being or their lawful representatives, or the greater part of them, assembled at any meeting duly convened and held for that purpose, to elect some fit person to be a trustee in the place and stead of the trustee so dying, becoming incapable, or resigning: Provided that no trustee shall be permitted to resign his office until he shall have duly accounted to his co-trustees for all sums of money at any time received by him in his said trust; and provided also, that if any such vacancy or vacancies shall not be supplied by the election of another trustee or other trustees in manner aforesaid, the remaining trustees or trustee shall continue to exercise all the powers which by this Ordinance are given to the trustees hereby appointed.

Objects of the trust.

3. The said first or original trustees, and all others who shall be hereafter elected as trustees under the provisions of this Ordinance, shall, whilst they continue such trustees, stand and be possessed of all tolls and sums of money collected or received by virtue of this Ordinance, upon trust in the first place to pay and apply the said tolls and sums of money for defraying thereout the cost of all necessary expenses in and about the keeping and maintaining the said road at all times in good and sufficient repair; and also upon trust thereafter to pay and apply the said tolls and sums of money in and about the purchase of such land, and the erection of such houses and buildings as are or may be required for the collection of the said tolls, and to pay the wages of the persons employed in making such collection; and also upon trust thereafter to pay and apply the said tolls and sums of money in payment of any loans, and the interest thereof, which may be effected by the said trustees for carrying into effect the objects of their trust; and lastly, upon trust to pay the residue thereof to the proprietors for the time being of the aforesaid estates, in the proportion of the amounts subscribed by the present proprietors thereof respectively towards the making and completion of the said road.

Accounts of trustees to be published.

4. On or before the thirty-first day of March in every year the said trustees shall transmit to the Colonial Secretary for this island a true and correct account under their hands, wherein shall be entered all monies received and paid by them or by their directions and authority, and on what account or for what purpose, under any of the provisions of this Ordinance; and the said account shall thereupon be published in the Government Gazette for general information.

Proceedings if road not kept in repair.

5. If the said trustees shall at any time neglect to keep the said road in good and sufficient repair, it shall be lawful for the Commissioner of Roads or the Government Agent for the Central

Province, on the information of any person whomsoever, to make or cause an examination to be made into the state of repair of the said road; and if upon such examination it shall be made to appear to such Commissioner of Roads or Government Agent that the road is out of repair, it shall be lawful for such Commissioner of Roads or Government Agent to take such steps as may appear to him requisite for having the said road put into good and sufficient repair, and the costs thereof shall be payable by the trustees; and if on being required to make such payment they shall fail or refuse so to do, it shall be lawful for such Government Agent (in addition to any remedy which the Crown may have at law against such trustees to recover the amount so expended) to demand and take the said tolls, and to appoint some person or persons to receive and collect the same for and on behalf of the Crown, and from that time forward it shall not be lawful for the said trustees to demand and take any toll whatsoever under the provisions of this Ordinance.

Government may purchase the said road, &c.

6. It shall be lawful for the Governor of this colony for the time being, with the advice and consent of the Executive Council thereof, at any time to tender payment to the said trustees of the said sum of three thousand eight hundred and nine pounds and one shilling sterling, with interest at the rate of six per cent. per annum, less such part of the said sum and interest as shall have been reimbursed to them by means of the payments received on account of the tolls which the said trustees are by this Ordinance authorized to demand and take, after deduction of the expenses incurred by them in keeping the said road in repair and in the collection of the said tolls; and on such payment being made or tendered to the said trustees it shall be lawful for the said Governor by any Ordinance to be by him in that behalf made and enacted, with the advice and consent of the Legislative Council of this colony, to declare and enact that this Ordinance shall no longer be of any force or effect whatsoever, and that the said road, and all toll gates, toll bars, and other buildings put up, erected, or purchased by the trustees for the collection of the tolls thereon, and all land purchased or required by the said trustees under the provisions of this Ordinance, shall thereafter belong absolutely and to all intents and purposes whatsoever to the Government of this colony.

Table of tolls to be kept suspended at toll gate.

7. The said trustees shall cause a copy of this Ordinance, and also a board with the table of tolls, and the name of the toll collector painted thereon in large and legible characters in the English and native languages, to be suspended at some conspicuous place immediately adjoining the said toll gate or toll bar; and if any person appointed by the said trustees under the provisions of this Ordinance for the collection of tolls shall demand or take any toll under the provisions of this Ordinance, unless a copy of this Ordinance and such board as aforesaid shall be suspended in manner aforesaid, or shall demand or take any toll not authorized to be taken by this Ordinance, or from any person by this Ordinance exempted from the payment of toll; or shall wilfully subject any passenger, vehicle, or animal to unreasonable delay or

detention; every such offender shall, on conviction, be liable to the payment of a fine not exceeding five pounds, one half whereof shall be paid to the informer, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months, and on any second or subsequent conviction to a fine not exceeding ten pounds, one half whereof shall be paid to the informer, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months.

Penalty for infringement of this Ordinance by passengers.

8. If any person liable to payment of toll shall pass from the said road over any land near or adjoining thereto (not being a public highway) with intent to evade such payment, or shall fraudulently or forcibly pass by, over, or through any place duly appointed for the collection of tolls, or shall resist or make forcible opposition against any person duly appointed to collect tolls in the execution of his office, or if any person shall maliciously damage any bar, gate, or other thing employed for the purpose of collecting tolls, or shall maliciously remove, deface, alter, or damage any copy of this Ordinance or board suspended as herein-before directed, or do any act whatsoever in order to evade the payment of any toll, and whereby the same shall be evaded, every such person shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding five pounds, which shall be paid to the said trustees, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months.

Limitation of prosecution.

9. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance, unless the same shall be commenced within six calendar months from the time of the commission of such offence.

Informer a competent witness.

10. Upon the trial of any person for a breach of any of the provisions of this Ordinance, the informer or complainant or other person shall be deemed and is hereby declared to be a competent witness, notwithstanding that he may be entitled to any part of any pecuniary penalty or to any pecuniary compensation or reward on the conviction of any such offender.

Exemptions.

11. The Governor or Lieutenant Governor and his suite, when in immediate attendance on him, the Government agents, the Civil Engineer and Surveyor General, the Commissioner of Roads, and their respective assistants, when on duty, together with all their necessary attendants, horses, animals, conveyances, baggage and implements, military officers and soldiers, mounted or unmounted, whether on duty or not, but provided they be in uniform dress or undress, and all messengers, carriages, and horses drawing or carrying the public mails, shall be exempted from payment of any toll.

SCHEDULE.

A.

Name of Estates.	Names of Proprietors.	Amount subscribed. £	s.	d.
Gadadessa - -	Messrs. A. and R. Crowe and Co., proprietors and agents - -	1,282	10	0
Hunnagalle Kande -	„ W. C. Gibson, Read, Davidson, and Co. - - - -	241	17	6
Gona Adika - -	„ Saunders and Lee - - -	990	8	6
Alpitia Kandy - -	„ Jms. and Geo. Smith and Co. proprietors and agents - -	552	7	6
Wackettiadinne -	Mr. W. H. Kelaart - - -	136	10	0
Kekunagola - -	„ W. Ferwerda - - - -	74	18	6
Church Hill - -	Messrs. J. N. Mooyaart, C. P. Layard, and W. Simson - -	400	14	0
Paranapettya - -	Mr. Layard - - - - -	55	0	0
Colpetty Hill - -	„ J. Soloman - - - -	39	8	0
Johannesberg - -	Messrs. Jacobus and Henry Coopman - - - - -	35	7	0

B.

TABLE OF TOLLS.

Every loaded bandy or other carriage or vehicle drawn by any horse or horses, bullock or bullocks, or by any other beast or beasts of burthen - - - - -	£0	2	0

17th November 1846.

64.

No. 12 of 1846.

An Ordinance to regulate the temporal affairs of the Episcopal Churches in the Island of Ceylon which have been erected or are now in course of erection, or which may hereafter be erected, in terms of the Ordinance No. 1 of 1845.

Preamble.

WHEREAS by the Ordinance No. 1 of 1845 it was enacted that whenever any sum of money not less than one hundred pounds should be raised by subscriptions drawn exclusively from the resources of private persons for the erection of any place of Christian worship in any part of this colony, or for the erection of any such place of worship together with a minister's dwelling, or for the erection or purchase of a minister's dwelling alone in respect of any existing place of worship, in the building or maintenance of which any public monies had been expended, it should be lawful for the Governor, with the advice of the Executive

Council, to cause to be issued from the Colonial Treasury, as a contribution from the public funds, such sum or sums of money as should be equal to the amount of such subscription; provided that no such sum should be issued from the Colonial Treasury until the whole amount required to be furnished by subscription should have been deposited therein, and a plan of the intended building submitted to the Governor and Executive Council and approved of by them: And whereas by the said Ordinance it was further enacted that before any sums of money should be issued from the Colonial Treasury as aforesaid trustees should be elected or appointed in such manner as should by some future Ordinances be provided: And whereas certain churches for the celebration of Divine service according to the rites of the United Church of England and Ireland have been erected or are now in course of erection by subscription and by contribution from the public funds as aforesaid, and it is expedient to make provision for the management of the temporal affairs of the said churches, and of any others which may hereafter be erected in like manner for the purpose aforesaid:

Notice of election for church already erected,

1. Within three months from the passing of this Ordinance, the colonial chaplain of any church already erected in manner aforesaid shall fix a place and a day, which shall not be earlier than twenty-one days from the passing of this Ordinance, for holding a general meeting for the election of trustees of the said church in manner herein-after appointed, and shall cause notices thereof to be affixed to some conspicuous parts of the said church.

or in course of erection,

2. The building committee or persons in charge of the building of any church now in course of erection in manner aforesaid shall, within ten days from the passing of this Ordinance, fix a place and a day in the month of December next ensuing for holding a general meeting for the election of trustees of the said church in manner herein-after appointed, and shall give notice thereof in three successive Government Gazettes.

or to be hereafter erected.

3. The building committee or persons who may be in charge of the building of any church to be hereafter erected in manner aforesaid shall, at the time of making application to the Governor for a contribution from the public funds, fix a place and a day for holding a general meeting for the election of trustees of the said church in manner herein-after appointed, and shall give notice thereof in three successive Government Gazettes.

Mode of holding election.

4. Any election to be held under the provisions of the three preceding clauses shall be held before the person or persons by whom the day and place for holding the same shall have been fixed; and it shall be lawful for the subscribers to any church of which the sittings shall not have been apportioned, or for the seatholders, if the same shall have been apportioned, in respect of which such election shall be held, to elect three trustees of such church: Provided always, that no subscriber or seatholder shall be entitled to give more than one vote, or to give any vote except in person, and that no person shall be entitled to vote who shall not be twenty-one years of age, and the person or persons holding any such election shall record the names of the voters and of the

Mode of voting.

persons for whom their votes shall be given, and shall at the close of the election declare the names of the three persons for whom the greatest number of votes shall have been recorded, who shall thereupon be deemed to be duly elected as trustees, and shall grant to such persons certificates under their hands of such their election.

Appointment by bishop of one trustee.

5. The trustees elected under the provisions of the preceding clause shall without delay communicate such their election to the bishop of the diocese, who shall thereupon be entitled to appoint one other person to be a trustee of the church in respect of which such trustees shall have been elected, and shall grant to such person a certificate of such his appointment; and it shall be lawful for the bishop from time to time, if he shall see fit so to do, to withdraw any such appointment, and to appoint some other person to be a trustee of such church, and to appoint a new trustee in the place of any trustee originally appointed by him who shall in any manner have vacated his office.

Vacancy of trustee.

6. In case of the death, incapacity, resignation, or departure of any trustee of any church elected under the provisions of this Ordinance, or of his ceasing to be a seatholder, or of his election not being confirmed by the Governor, or in case any such trustee shall be a confirmed lunatic, or shall be or become disqualified to act in such capacity, the remaining trustees of such church shall fix a place and a day for holding an election of a new trustee, and shall give notice thereof in the three Government Gazettes published next immediately preceding such day, and such election shall be held by the said trustees according to such and the same forms as are herein-before prescribed for the election of the original trustees.

Qualification of trustee.

7. Every trustee to be elected or appointed under the provisions of this Ordinance shall be a member of the United Church of England and Ireland, and no person shall be elected or appointed or shall continue to be a trustee of any church after the apportionment of the sittings in the same unless he shall be one of the seatholders therein.

No election or appointment of any trustee valid unless sanctioned by the Governor.

8. No election or re-election or appointment of any trustee shall be valid, nor shall such trustee be capable of performing any of the functions provided by this Ordinance, or of sitting or voting at any meeting of trustees, until after his Excellency the Governor shall have signified his sanction or confirmation of such election, re-election, or appointment.

Trustee resigning to render account.

9. No trustee shall be permitted to resign his office until he shall have duly accounted, to the satisfaction of his co-trustees, for all sums of money at any time received by him in his said trust.

Annual election of trustees.

10. No trustee elected under any of the provisions of this Ordinance shall continue in office beyond the thirty-first day of December next ensuing after such his election; and that the trustees for the time being of any church erected or to be erected in manner aforesaid shall fix a place and a day in the month of December in every year for the holding before them of a general meeting for the election of three new trustees of such church for the year commencing on the first of January next ensuing, and

shall give notice thereof in the three Government Gazettes published next immediately preceding such day, and shall cause written notice thereof to be posted for fourteen days in some conspicuous place on or near the church; and such election shall be held according to such and the same forms as are herein-before prescribed for the election of the original trustees of such church: Provided always, that nothing herein contained shall be construed to prevent any person who at the time of holding such election may be one of the trustees of any such church from being elected as such for the ensuing year.

Bishop to appoint in default of election of trustees.

11. If after the election and appointment of the original trustees of any such church the trustees for the time being shall, for the period of one month, neglect to fix a place and a day for holding an election of a trustee in the room of one who may in any manner have vacated his office, or whose election the Governor shall have refused to confirm, or if they shall for the like period neglect to fix a place and a day for holding an election of trustees for the ensuing year as herein-before appointed, it shall be lawful for any six of the subscribers to such church, or if the sittings shall have been apportioned, for any six of the seatholders, to fix such place and day, and to give notice of the same in manner herein-before appointed; and such election shall be held before the chaplain or clergyman of such church; but if no such election shall be held within two months from the time appointed by this Ordinance it shall be lawful for the bishop of the diocese to appoint by writing under his hand, subject to approval of the Governor, one or more fit and proper person or persons to be trustee or trustees of such church to fill the vacancy or vacancies which shall have thus occurred, and every such trustee so appointed shall continue in office until the thirty-first day of December next ensuing.

Bishop may be sole trustee.

12. Nothing in this Ordinance contained shall be construed to prevent any person or persons who may hereafter, without any pecuniary or other contribution from the Government, erect any church for the celebration of divine service according to the rites of the United Church of England and Ireland, from nominating the bishop of the diocese for the time being and his successors to be the sole and successive trustees of such church, and in any such case the bishop shall hold, exercise, and enjoy in respect to such church all the rights and privileges vested in trustees elected or appointed under this Ordinance.

Chaplain or clergyman chairman of trustees.

13. The colonial chaplain or clergyman for the time being duly appointed and licensed to any church erected in manner aforesaid, or during his absence the clergyman duly authorized to officiate for him, shall, whenever present at any meeting of the trustees of such church, be *ex officio* chairman of such meeting, but shall not have the power of voting except in cases where the votes of the trustees present shall be equal; and when no such chaplain or clergyman is present the trustees shall elect their own chairman, and such trustees shall upon all matters before them have each one vote, and any three such trustees, or any two with the *ex officio* chairman, shall form a quorum, and any such quorum shall and may exercise all the powers and privileges which are

vested in the trustees of any church by this Ordinance, and in the event of a difference of opinion between such trustees on any occasion, the votes of the majority shall be binding upon all; and in case of an equality of votes, and in the absence of the chaplain or clergyman, the chairman for the time being shall, in addition to his own vote, possess a casting vote, and such trustees shall have power from time to time to make byelaws (such laws not being inconsistent with this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors, until by them abrogated or altered: Provided always, that the meetings of the trustees shall take place on stated days agreed to by a majority for the transaction of ordinary business, and that if the meeting be extraordinary or special seven days notice thereof, and of its object, shall be given in writing to each of the said trustees and to the chaplain or clergyman, and that it shall at any time be competent for any two of the said trustees to convene such special meeting.

Property vested in trustees.

14. The real estate and property in any church of which trustees shall be elected and appointed in the manner aforesaid, and in any burial ground now belonging or which may at any time hereafter belong thereto, and their appurtenances respectively, and in all lands and hereditaments and in all monies and chattels belonging or which may hereafter belong thereto, shall be deemed and taken to be vested in such trustees for the purposes of their trust.

Trustees to make agreements, &c.,

15. It shall be lawful for the said trustees to make or enter into, perform, and execute, and compel the performance and execution, of all such contracts and agreements, matters and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them in the name of "the trustees of the church," specifying the name of the church, but without specifying the christian or surname of the trustees, and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits and actions the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement, or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the said trustees under the name and title aforesaid; nor shall any of the said trustees, merely by reason of his being a plaintiff in any such suit, be prevented from being a witness therein.

and sue and be sued.

Trustees to apportion sittings.

16. The said trustees shall and they are hereby required as soon as may be after their election and appointment, or as soon as possible after the church shall be ready for the performance of divine worship, to set out and apportion sittings in the church intrusted to them, and to affix and assess a rent or rate for such sittings, and make agreements and contracts with any person desirous to engage the same according to such assessment: Provided always, that one sixth part of the whole number of sittings

in any such church shall be appropriated free of any charge whatever to the use and accommodation of the poorer classes of the population, and also not less than four sittings for the use and occupation free of all charge of the chaplain or clergyman; and such sittings shall for ever be kept apart for the purposes aforesaid.

Subscribers entitled to sittings.

17. Every subscriber to any church erected in manner aforesaid, provided he be *bonâ fide* resident within twenty miles of the same, shall be entitled to engage such number of sittings therein as he may really require for the use of himself and his family, and the priority of choice amongst such subscribers shall be determined by the trustees; and after all the sittings shall have been so apportioned in the first instance, the trustees shall register in a book, to be by them kept for that purpose, all subsequent applications for sittings in the order in which they may be received by them, and shall allot such sittings as may thereafter become vacant to the parties who may have applied for the same according to such order.

Trustees to collect monies, and remove officers, and defray necessary expenses.

18. It shall be lawful for the said trustees, and they are hereby required, to collect and gather, or cause to be collected and gathered, all sums of money which shall be due for sittings in any such church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments or from any property whetever belonging to such church, and all fees and payments for vaults and tombstones, and to apply for the said sums; and it shall be lawful for the said trustees in conjunction with the chaplain or clergyman of such church, who in respect of such appointments or removals shall have a vote, to appoint, suspend, and remove all church officers and servants employed in or about any such church (the clerk of the same excepted, who shall in each case be appointed and removed by the chaplain or clergyman only), and it shall be lawful for the said trustees generally to manage the temporalities of every such church, and to provide such articles as may be necessary for the proper celebration of divine service therein, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid), and to pay the amount thereof respectively, and of all repairs of buildings and other expenses which circumstances may from time to time render necessary, by or out of such rents and fees as aforesaid, or out of such other funds as may come to their hands.

Erection of monument, &c.

19. It shall and may be lawful for the said trustees, with the previous consent of the bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monument to be erected or placed in such parts of any church erected or to be erected as aforesaid, or of the enclosed ground about the same, or of the burial ground belonging thereto. as they may deem convenient, or vaults to be dug and made in the said burial ground, upon payment to the said trustees, for the use of such church, for such permission, by the person or persons desiring to erect or place any monument therein or enclosed ground about the same, or in the said burial ground, or to dig and make any vault in the

said burial ground, or such charges as to the said trustees shall appear fitting; provided that the same shall in no case exceed the charges set forth in the schedule hereunto annexed; and it shall be lawful for any person or persons erecting or placing any monument in any such church or enclosed ground about the same, or digging or making any vault in the said burial ground, by and with such permission as aforesaid, to have and maintain and keep up such monument or vault, according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever: Provided always, that it shall not be lawful to bury any body within any such church or within the enclosed ground about the same.

Appointment of auditor.

20. One person, not being a trustee, shall be elected at a general meeting to be called by the trustees in the first week in January in every year, to be an auditor of the yearly accounts of the said trustees.

Trustees to keep account.

21. The said trustees shall keep an account, wherein they shall enter all monies received and paid by them under and by virtue of the provisions of this Ordinance, which account the auditor may inspect at all reasonable times, and the said account, together with any report of the auditor thereon, shall be laid before the general annual meeting to be held under the provisions of the ninth clause of this Ordinance.

Trustees may accept lands.

22. It shall be lawful for the said trustees to accept or take from persons willing to give the same, or from the Crown, subject to the provisions of any law now or hereafter to be in force relating to such gifts, any lands or premises adapted for the site of a chaplain's dwelling, with a garden and other appurtenances thereunto, or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such church or of the chaplain thereof, and such lands or premises so given shall be deemed and taken to be for ever vested in the trustees of the said church for the time being in trust for the purposes thereof.

Performance of service for troops.

23. It shall be lawful for the Governor, should circumstances render the same necessary, to require the free use of any church erected or to be erected in manner aforesaid for the performance of divine service for the benefit of any troops stationed at or near to the same, at such hour during any Sunday as may be fixed by the said Governor after communication with the bishop of the diocese: Provided always, that such extraordinary service shall not interfere with the ordinary services of the day.

Person disturbing public worship.

24. Every person who shall wilfully and maliciously, either within or from without any such church, disturb the performance of public worship therein, or in any way during such time molest any of the congregation, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding five pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Exclusive privileges of chaplain.

25. No person shall be suffered to perform divine service or to administer the sacraments, or to preach any sermon in any such

church, except the bishop of the diocese, the archdeacon, and the colonial chaplain duly appointed and licensed to such church, or some clergyman duly appointed by the ordinary.

26. Nothing in this Ordinance contained shall or shall be deemed and taken to affect the Ordinance No. 11 of 1842, entitled "An Ordinance to provide for a church in Kandy," or to extend the provisions of this Ordinance to such church, but the said Ordinance No. 11 of the year 1842 shall continue to be of full force and effect, and the affairs of the said church in Kandy shall continue to be regulated thereby. Ordinance not to affect Ordinance No. 11 of 1842.

SCHEDULE.

Erecting a tablet or monument in the church, not less than five pounds nor more than twenty pounds.

Erecting a monument in the ground adjoining the church, not being the burial ground, any sum not less than three pounds nor more than ten pounds.

Burial in a brick or stone grave in the burial ground, one pound.

Headstone or footstone (each), ten shillings.

A stone covering over such grave, one pound.

A vault, for each person it is capable of containing, one pound ten shillings; and on every occasion of its being opened, one pound.

A raised tomb over a vault, for each person it is capable of containing, one pound ten shillings.

26th November 1846.

65.

No. 3 OF 1847.

An Ordinance to prohibit natives of India from entering into contracts in this island for labour to be performed in any British or foreign colony beyond the limits of this island and without the territories of the East India Company, and from emigrating from this island to any such colony for the purpose of employment as labourers.

WHEREAS by Act XIV. of 1839 of the Governor General of India in Council it was enacted, that every person who should make with any native of India any contract for labour to be performed in any British or foreign colony without the territories of the East India Company, or who should knowingly abet or aid any native of India in emigrating from the said territories for the purpose of being employed as a labourer, should be liable, on conviction, to certain penalties therein declared: And whereas it has been intimated to the Government of this colony that the provisions of the said recited Act will cease to have any force or effect Preamble.

in so far as regards the island of Ceylon so soon as the Governor General of India in Council shall be duly certified that the Legislature of the said island has made such laws as the said Governor General in Council shall think sufficient for the protection of natives of India emigrating to the said island against the evils which might attend their emigrating from the said island to any other British or foreign colony: And whereas it is expedient that the Legislature of this island shall forthwith make provision for the protection of such natives against the evils aforesaid:

Penalty on natives of India contracting for labour to be performed in any British or foreign colony, or embarking on board any vessel for the purpose of employment as labourer in any such colony, and on all persons aiding or abetting them.

1. If any native of India who shall have emigrated therefrom to this island shall enter into any contract within the said island for labour to be performed in any British or foreign colony beyond the limits of the said island and without the territories of the East India Company, or shall embark or attempt to embark from any place in the said island on board any ship or vessel for the purpose of being conveyed to any British or foreign colony beyond the limits of the said island and without the territories of the East India Company, and of being employed in such colony as a labourer, every such native shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds.

2. Every person who shall enter into any such contract as aforesaid with any such native of India, or shall knowingly aid or abet any such native in embarking or attempting to embark from any place in this island on board any ship or vessel for the purpose of such conveyance and employment as aforesaid, or shall attempt by means of intoxication or by false imprisonment or other means of crimping to export any such native from any place in this island on board any ship or vessel for the purpose of such conveyance and employment as aforesaid, and every master or person in charge of a ship or vessel who shall admit any such native on board thereof for the purpose of such conveyance and employment as aforesaid, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds for every native so contracted with, aided, abetted, exported, or admitted on board.

Powers of search, &c. for the purposes of this Ordinance extended to officers of customs and pilots.

3. All powers vested by law in the officers of customs in regard to the searching and detention of ships and vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of natives of India on board of ships or vessels in any port, harbour, or roadstead in this island, and of other offences against this Ordinance; and all persons authorized to act as pilots in this island are hereby invested with the same powers and charged with the same duties as officers of the customs in this behalf.

This Act not to extend to bonâ fide menial servants.

4. Nothing in this Ordinance contained shall be taken to apply to any native of India who shall of his own free will enter into any *bonâ fide* contract to serve on board any ship or vessel as a seaman or as a menial servant, or to any such native who shall embark or attempt to embark on board of any ship or vessel in pursuance of any such contract or as a menial servant, or to any person who shall enter into any such contract with any such

native, or who shall aid or abet any such native in embarking or attempting to embark on board any ship or vessel for the purpose of serving as a seaman or menial servant, or to any master or person in charge of any ship or vessel who shall admit any such native on board thereof for the purpose of such service as aforesaid, or to any native of India who shall hold a sufficient licence or certificate of some competent authority in that country to enter into any contract for labour to be performed in any British or foreign colony beyond the limits of this island and without the territories of the East India Company, or to embark for or proceed to any such colony.

28th September 1847.

66.

No. 4 OF 1847.

For authorizing the Sale of Immoveable Property under writs of execution issued by courts of requests; and for giving legal effect and validity to past sales of such property by fiscals in certain cases, and indemnifying such fiscals and their officers against all actions in respect of such sales.

Preamble.

WHEREAS by the Ordinance No. 10 of the year 1843, entitled "An Ordinance for the establishment of Courts of Inferior Civil "Jurisdiction, to be called Courts of Requests," it is amongst other things enacted, that the judgment and award of such courts of requests shall in all cases when necessary be carried into execution by attachment and sale of the goods and effects, or by corporal arrest of the party or parties against whom such judgment or award shall have been given or made: And whereas in many instances the judgments and awards of the said courts of requests have been carried into execution by attachment and sale of the immoveable property of parties against whom such judgments or awards had been given or made: And whereas it has been determined by the Supreme Court of this island that such sales of immoveable property are not authorized by the said above-recited Ordinance; but it is expedient that sales of immoveable property in satisfaction of the judgments and awards of courts of requests should for the future be allowed; and it is also expedient to give legal effect and validity to all such past sales of immoveable property, and to indemnify all fiscals and their officers against all actions and suits in respect of any such sales:

1. Repealed.

2. Repealed.

Former sales declared valid.

3. No sale of immoveable property held or effected previous to the promulgation of this Ordinance under or in pursuance of any warrant heretofore issued by any court of requests in execution of any judgment or award of any such court, and no transfer or

conveyance of immoveable property made or to be made in pursuance of any such sale, and no payment of monies realized by such sale made or ordered to be made or to be hereafter made or ordered to be made by any such court, shall be deemed or taken to be or shall be liable to be set aside as invalid or void on the ground or by reason that immoveable property could not be legally sold in execution under the authority of any such court of requests, or that the said court had no jurisdiction to order payment to be made of the amount realized by such sale, or to determine the respective rights of the parties interested in such amount.

Fiscals holding such sales indemnified.

4. All Fiscals and Deputy Fiscals, and all persons whomsoever acting under their authority or by their order, and all Commissioners of Courts of Requests, and all persons acting *bonâ fide* under the authority of any such court, shall be and are hereby indemnified, freed, and discharged from and against all damages, charges, and liabilities whatsoever incurred or to be incurred for or by reason of any sale of immoveable property in execution of any judgment or award of any court of requests previous to the promulgation of this Ordinance, or of any act necessarily or properly done or to be done by them for the purposes or in furtherance of or for giving effect to such sale.

Ordinance need not be specially pleaded.

5. In case any suit or action shall have been brought before or shall be brought or carried on after the promulgation of this Ordinance, for the purpose of avoiding any such sale, or of setting aside or cancelling any such transfer or conveyance, or to recover any damages from any person hereby meant or intended to be indemnified, the defendant in such suit or action may upon his defence give this Ordinance and the special matter in evidence upon any trial to be had thereupon, without having specially pleaded the same.

28th September 1847.

67.

No. 6 OF 1847.

An Ordinance to amend in certain respects the Law of Marriages, and to provide for the better Registration of Marriages, Births, and Deaths.

Preamble.

WHEREAS it is expedient to amend in certain respects the law of marriages, and to provide for the better registration of marriages, births, and deaths:

Repeal of former regulations.

1. It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the Regulation No. 7 of 1815, entitled "For facilitating the marriages of native Protestants," shall be and the same is hereby repealed: Provided nevertheless, that all marriages contracted under the provisions of the said regulation, and all marriages declared therein to be valid, shall be deemed and taken to have been good and valid marriages.

2.-6. Repealed.

7. It shall be lawful for the Governor to appoint one Registrar General of marriages in this colony, and one Provincial registrar in each of the provinces thereof, and to establish from to time, with the advice of the Executive Council, such and so many districts within any of such provinces as shall appear expedient, and such districts at any time, with the like advice, to alter or abolish; and it shall be lawful for the said Governor to appoint one or more registrar or registrars to each of such districts, and at any time when he shall think fit to remove any such Registrar General, provincial registrar, or registrar, and when necessary to appoint some other person in his place or in the place of any Registrar General, Provincial registrar, or registrar who shall have died or resigned his office; and it shall be lawful for the Governor from time to time, with the advice of the Executive Council, to make regulations for the direction of the said Registrar General, provincial registrars, and registrars in the discharge of their duties, and for the maintenance of such officers or establishments as may be necessary thereunto: Provided always, that such regulations shall in no case be inconsistent with or repugnant to any of the provisions of this Ordinance.

Governor to appoint registrars.

8.-9. Repealed.

10. If any person being removed or ceasing to act in the office of Registrar General, Provincial registrar, registrar, or assistant registrar, or in the case of the death of any such officer, if any of his heirs, executors, or administrators, or any other person into whose possession any registers, books, or other articles possessed by him in right of the said office, and necessary or convenient to the duties thereof, shall have come, shall wilfully cause the same or any part thereof to be lost or destroyed, or shall wilfully neglect or refuse to deliver over the same or any part thereof as soon as conveniently may be to his successor, every such person shall be guilty of an offence, and shall, on conviction thereof, be committed to prison, there to remain without bail and at hard labour until he shall have delivered up the same, if it shall be within his power so to do, and shall in addition be liable to a fine not exceeding one hundred pounds or to imprisonment at hard labour for any period not exceeding three years; and any judge, magistrate, or justice of the peace may grant a warrant to search for such articles as in the case of stolen goods, in any dwelling house or other premises within his jurisdiction, in which there is reasonable cause to suspect the same to be, and the same, when found, shall be delivered to the person in whose custody they ought to be.

Transfer of register on decease, &c. of registrar.

11. Every Registrar General, Provincial registrar, and registrar shall keep books for the several purposes of this Ordinance of such form and material as shall at any time hereafter be directed by the Governor, with the advice of the Executive Council, and that such books shall at no time be out of the possession of the said Registrar General, Provincial registrars, registrars, or assistant registrars: Provided always, that all persons shall be entitled to refer to and demand extracts from the book of the Registrar General, or of any Provincial registrar or registrar, on payment of

Book to be kept, and give extracts.

Fee for extract to be deter-

mined by the Governor and Council.

such fee as the Governor, with the advice of the Executive Council, may from time to time direct, and every such extract shall bear a stamp of one shilling and sixpence.

12.–17. Repealed.

Where consent is necessary.

18. The father, if living, of any male under twenty-one years of age, not being a widower, and of any female under sixteen, or in the case of a daughter of European or burgher parents, under twenty-one years of age, not being a widow, or if the father shall be dead the mother, or if both father and mother shall be dead the guardian or guardians of the party so under age lawfully appointed, or one of them, shall have authority to give consent to the marriage of such party, and to forbid the issue of any such certificate as aforesaid, or the publication of banns, or the solemnization of marriage, in respect of such party; and such consent is hereby required for the marriage of such party so under age, unless there shall be no person authorized to give such consent: Provided always, that in case the father or fathers of the parties to be married, or of one of them so under age as aforesaid, shall be *non compos mentis*, or the mother or mothers, guardian or guardians, or any of them whose consent is made necessary as aforesaid to the marriage of such party or parties, shall be *non compos mentis*, or in parts beyond the island, or shall unreasonably or from undue motives refuse or withhold his, her, or their consent to a proper marriage, then it shall and may be lawful for any person desiring to marry in any of the before-mentioned cases, to apply to the judge of any court of record within the district in which such person shall reside, which judge is hereby empowered to proceed upon and to determine such application in a summary way; but an appeal shall lie from every such decision to the Supreme Court or to any judge thereof, and in case the marriage proposed shall upon examination appear to be proper, the judge shall certify the same to be so, and such certificate, unless set aside in appeal, shall be deemed and taken to be as good and effectual to all intents and purposes as if the father or mother, guardian or guardians, of the person so applying had consented to such marriage.

19.–22. Repealed.

After proof of residence unnecessary.

23. After any marriage shall have been registered it shall not be necessary in support of such marriage to give any proof of the actual dwelling of either of the parties previous to giving notice of marriage within the district where such notice was given for the time required by this Ordinance, nor shall any evidence be admissible to prove the contrary in any suit touching the validity of such marriage.

24.–25. Repealed.

When marriage invalid.

26. From and after the publication in the "Gazette" of the confirmation of this Ordinance by Her Majesty no marriage shall be valid to which the male party is under sixteen or the female under ten, or if a daughter of European or burgher parents under fourteen years of age.

Prohibited degrees of relationship.

27. No marriage solemnized by any minister after the confirmation of this Ordinance by Her Majesty, and no marriage solemnized by a registrar in any part of this island, after this

Ordinance shall have been proclaimed to be in force therein, shall be valid where either party shall be directly descended from the other, or where the female shall be sister of the male, either by the full or the half blood, or the daughter of his brother or of his sister by the full or the half blood, or a descendant from either of them, or daughter of his wife by another father, or his son's, or grandson's, or father's, or grandfather's widow, or where the male shall be brother of the female either by the full or the half blood, or the son of her brother or sister by the full or the half blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's, or granddaughter's, or mother's, or grandmother's husband; and any marriage or cohabitation between parties standing towards each other in any of the above enumerated degrees of relationship shall be deemed to be an act of incest, and shall be punishable with imprisonment with or without hard labour for any period not exceeding one year.

What constitutes bigamy.

28. No marriage solemnized in any part of this island after the notification in the "Gazette" of the confirmation of this Ordinance by Her Majesty shall be valid (except among Mahomedans) where either of the parties thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void by decree of some competent court; and every person, except a Mahomedan, who shall after such period as aforesaid contract a subsequent marriage before his or her prior marriage shall have been so dissolved or declared void, and every person except a Mahomedan who shall marry another whom he or she shall know to be bound by a previous marriage not so dissolved or declared void, shall be guilty of bigamy, and liable to imprisonment with or without hard labour for any period not exceeding three years: Provided always, that no person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, shall be deemed to be guilty of bigamy.

Grounds of divorce.

29. No valid marriage once contracted in any part of this island after the confirmation of this Ordinance by Her Majesty shall be dissolved during the lifetime of the parties thereto, except by judgment of divorce *a vinculo matrimonii*, pronounced in some competent court, and which judgment shall be founded either on the ground of adultery subsequent to marriage, or malicious desertion, or of incurable impotency at the time of such marriage, and every court in this island having matrimonial jurisdiction is hereby declared competent to dissolve any such marriage on any such ground.

Suit to compel marriages not allowed.

30. From and after the notification in the "Gazette" of the confirmation of this Ordinance by Her Majesty, in no case whatsoever shall any suit or proceeding be had in any court, or before any jurisdiction whatsoever, to compel the celebration of any marriage by reason of any promise or marriage contract entered into, or by reason of seduction, or of any cause whatever; and no promise or contract of marriage, or seduction, which shall have

been heretofore or shall be hereafter made, entered into, or committed, shall vitiate any marriage duly solemnized or registered under the provisions of this Ordinance: Provided always, that nothing herein contained shall prevent any person aggrieved from at any time suing for or recovering damages in any court where damages are lawfully recoverable for breach of promise of marriage, or for seduction, or for any other cause.

Legal marriage between parties to legitimize children of same parties before marriage.

31. From and after the notification in the "Gazette" of the confirmation of this Ordinance by Her Majesty, a legal marriage between any parties shall have the effect of rendering legitimate the birth of any children who may have been procreated between the same parties before marriage, unless such children shall have been procreated in adultery.

Where solemnization of marriage procured by false document.

32. If any valid marriage shall be had under the provisions of this Ordinance by means of any wilfully false notice, certificate, or declaration made by either party to such marriage as to any matter to which a notice, certificate, or declaration is herein required, it shall be lawful for the Queen's Advocate, if he shall think fit, upon the affidavit of either of the parties to such marriage, or in the case of any such marriage having been had without the consent of any person authorized to give the same, upon the affidavit of such person, or in the case of both such parties being charged with any such fraud, upon the affidavit of any third person, to sue by himself or by some Deputy Queen's Advocate for the district, or by some person duly authorized in that behalf in writing under the hand of the Queen's Advocate or of such deputy, in the proper district court for a forfeiture of all estate and interest in any property accruing to the offending party by such marriage, and such court shall have power in any such suit to declare such forfeiture, and thereupon to order and direct that all such estate and interest as shall then have accrued or shall thereafter accrue to such offending party by force of such marriage shall be secured under the direction of such court for the benefit of the innocent party, or of the issue of the marriage, or of any of them, in such manner as the said court shall think fit, for the purpose of preventing the offending party from deriving any interest in any real or personal estate or pecuniary benefits from such marriage; and if both the parties so contracting shall, in the judgment of the court, be guilty of any such offence as aforesaid, it shall be lawful for the said court to settle and secure such property, or any part thereof, immediately for the benefit of the issue of the marriage, subject to such provisions for the offending parties, by way of maintenance or otherwise, as the said court under the circumstances of the case shall think reasonable, regard being had to the benefit of the issue of the marriage during the lives of their parents, and of the issue of the parties respectively by any future marriage, or of the parties themselves, in case either of them shall survive the other: Provided always, that it shall be competent to the court before which such suit shall be brought to make such order respecting the costs thereof as to the said court shall seem fit and proper.

Settlement and agreements void.

33. All agreements, settlements, and deeds entered into or executed by the parties to any marriage in consequence of or in

relation to which marriage such suit as aforesaid shall have been commenced, or by either of the said parties before and in contemplation of such marriage, or after such marriage for the benefit of the parties or either of them or their issue, so far as the same shall be contrary to or inconsistent with the provisions of any security and settlement which shall be made by or under direction of any district court, or of the Supreme Court, as the case may be, as aforesaid, for the purposes mentioned in the preceding clause of this Ordinance, shall be absolutely void and have no force or effect.

34-58. Repealed.

19th October 1847.

68.

No. 7 OF 1848.

For registering Palanqueen and other Carriages let to hire.

WHEREAS it is expedient to make provision for the registration of palanqueen and other carriages let to hire for the job within certain places in this island, and for the licensing and regulating thereof:

Preamble.

1. It shall not be lawful for any person to let to hire by the job to any person any palanqueen carriage, or other carriage with two or more wheels, at any place within the towns, forts, or gravets of Colombo, Galle, Jaffna, and Trincomalie, or to keep the same for the purpose of letting it to hire by the job as aforesaid, unless such person shall have had the same registered in manner herein-after mentioned, and shall have obtained a licence for the same from the Government Agent of the province in which such person resides, or from some assistant Government Agent thereof; and every such licence shall be on a stamp of one pound, and shall be in force until the thirty-first day of December of the year in or for which the same shall be granted, and no longer, and shall be as near as is material in the form in the schedule hereunto annexed marked A., and the said licences shall be numbered consecutively, commencing at the beginning of every year with the number one.

Hired carriages not to be kept or let without licences.

2. Before any such licence as aforesaid shall be granted a declaration of ownership, as near as is material in the form in the schedule hereunto annexed marked B., shall be made and signed by the proprietor or one of the proprietors of the carriage in respect of which such licence shall be applied for; and in case any person on applying for any such licence shall neglect or omit to specify truly in such declaration the name of any person who shall be a proprietor or part proprietor of any such carriage, or who shall be concerned as aforesaid in keeping or letting to hire such carriage for which a licence has not been obtained, every person so offending shall be liable, on conviction, to a fine not exceeding five pounds.

Declaration of ownership to be made.

Numbered plates to be affixed to carriage.

3. At the time when any such carriage shall be licensed the Government agent or assistant Government agent granting such licence shall issue to the person applying for the same a plate on which shall be legibly painted or marked a number corresponding with the number of such carriage mentioned in the licence for the same, together with figures or letters denoting the year in which such licence has been granted and the name of the place where such licence was obtained; and the said plate shall be placed and fixed upon such carriage in such manner that the number thereon shall be at all times plainly and distinctly visible and legible, and shall be kept and continued so fixed during the continuance of such licence, and the proprietor of such carriage shall, at the expiration of the period for which the said licence shall have been granted, return the said plate to the Government agent or assistant Government agent from whom it was received.

Register of licences to be kept.

4. The said several Government agents and assistant Government agents shall and they are hereby required to keep a book in which shall be registered all the particulars stated in the licences granted by them, and every entry in such register shall be numbered in accordance with the number of the licence to which it has reference; and it shall be lawful for any person, at any time during office hours, to demand inspection of the said register, and also to take any copy or extract therefrom.

Mode of discontinuing licences.

5. When any person to whom any such licence shall have been granted shall determine to give up such licence, and to discontinue the letting to hire of the carriage in respect of which the same may have been granted, such person shall give notice in writing of such his determination to the Government agent or assistant Government agent from whom it was obtained, and when the time for giving up such licence according to such notice shall have expired, and the plate granted for such carriage shall have been redelivered to such Government agent or assistant Government agent, such licence shall cease and determine and shall be no longer in force.

Penalty for letting carriages to hire, &c. without a licence.

6. If any person shall let to hire, or shall keep for the purpose of letting to hire, any such carriage as aforesaid without having a licence in force so to do, or without having the said plate affixed as aforesaid; or if he shall use the said plate or suffer it to remain fixed on such carriage as aforesaid after the period for which it was given shall have expired, or shall neglect or refuse to deliver up such plate within six days after the expiration of such licence or after it shall have ceased to be in force, every such person so offending in any of the several cases aforesaid shall be guilty of an offence, and liable, on conviction thereof, to a fine not exceeding five pounds for the first offence, and for the second and every other offence to a fine not exceeding ten pounds.

Penalty for forging of licence, plate, &c.

7. If any person shall forge or counterfeit, or shall cause or procure to be forged or counterfeited, any licence or plate or part of any licence or plate issued under the provisions of this Ordinance, or if any person shall knowingly and without lawful excuse

(the proof of which excuse shall be on the person accused) have in his possession any false, forged, or counterfeit licence or plate resembling or intended to resemble either wholly or in part any licence or plate which at any time whatever hath been or shall or may be issued or used under the provisions of this Ordinance, then and in every such case the person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be liable to be imprisoned with or without hard labour for any term not exceeding five years.

Rates and fares to be taken for such licensed carriages.

8. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time as occasion may require, by any proclamation to be by him for that purpose issued and published in the Government Gazette of this island, to declare the rates and fares which the proprietors of carriages licensed under the provisions of this Ordinance shall be entitled to demand and take for the hire of such carriages within any of the said towns respectively, and from time to time, as occasion may require, to revoke any such proclamation, and to declare any other rates and fares which it shall be lawful for any such proprietors to demand and take for the hire of such carriages as aforesaid: Provided that nothing herein or in any such proclamation contained shall be construed to affect the right of any parties to enter into any special agreement with each other with reference to the hire of any such carriage and to the fare to be paid for the use of the same.

Penalty on person refusing to pay fare, &c.

9. If any person shall refuse or omit to pay to the proprietor or other person authorized to receive the same the sum justly due for the hire of such carriage, or if any person shall deface or in any manner injure any such carriage, it shall be lawful for the police court, upon complaint of the proprietor and proof of the facts, to award reasonable satisfaction to the party so complaining for his fare, or for his damages and costs, and also a reasonable compensation for his loss of time in attending to make and establish such complaint; and upon the refusal of such defaulter or offender to pay or make such satisfaction it shall be lawful for the said court to commit him to prison, there to remain for any time not exceeding one calendar month, and with or without hard labour, as the court shall think fit, unless the amount of such satisfaction shall be sooner paid.

Penalty on proprietors of licensed carriages refusing to let them or exacting more than the legal fare.

10. If the proprietor of any such licensed carriage, or any other person having the charge or care thereof, shall, without any reasonable and sufficient excuse, refuse to let such carriage to any person desirous of hiring the same for the legal and proper fare allowed by any proclamation issued under the provisions of this Ordinance, or shall exact or demand for the hire thereof more than the proper sum limited and allowed for the same by any such proclamation, every such proprietor or other person as aforesaid so offending shall be guilty of an offence, and liable, on conviction thereof, to a fine not exceeding two pounds.

Proprietor or drivers misbehaving.

11. If the proprietor, driver, or horsekeeper of any such carriage, or any other person having the charge or care thereof, shall by intoxication, or by wanton or furious driving or running with such carriage, or by any other wilful misconduct, injure or endanger any person in his life, limbs, or property; or if any such driver or horsekeeper shall drive any such carriage to which there is no proper box or seat for the driver; or if any proprietor shall let out his carriage for hire without having proper driving reins for the horse or horses drawing the same; or if any such proprietor, driver, horsekeeper, or other person as aforesaid shall make use of any abusive or insulting language, or be guilty of other rude behaviour to or towards any person whatever; or shall assault or obstruct any officer of police in the execution of his duty, every such proprietor, driver, or horsekeeper, or other person as aforesaid so offending in any of the several cases aforesaid, shall be guilty of an offence, and liable, on conviction thereof, to a fine not exceeding five pounds.

Proof of licence.

12. If in any prosecution or proceeding under this Ordinance any question shall arise as to whether a licence has been obtained for any carriage within the meaning thereof, or as to whether any person has made the declaration required by this Ordinance, the proof that such licence has been obtained, or that such person has made such declaration, shall lie on the party against whom such prosecution or proceeding shall be had: Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused against any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance.

Informer's share of penalty.

13. One half of all the fines actually recovered and realized under the provisions of this Ordinance shall go to our Lady the Queen, and the other half to the informer.

Limitation of prosecution.

14. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by the police court, unless the same shall be commenced within one calendar month from the time of the commission of such offence.

Proprietors of licensed carriages not required to take out carrier's licence.

15. No proprietor of any palanqueen carriage, or other carriage licensed under the provisions of this Ordinance, shall be required to take out any licence in respect of the same carriage under the provisions of the Ordinance No. 3 of the present year 1848, entitled "For the registration of carriages and boats used for the "conveyance of goods and passengers for hire, and for declaring "the rights and liabilities of the owners thereof."

16. Has had its effect.

SCHEDULE.

A.

Number 15.

Colombo the day of

Whereas *A.B.* of No. in Street of the pettah of Colombo, in pursuance of the Ordinance No. of the year 1848, has made and subscribed the declaration thereby required, and has declared that he is the sole proprietor of the palanqueen carriage (*or other description of carriage, as the case may be*) marked and registered number 15, license is hereby granted unto the said *A.B.* to let out the said carriage for hire by the job from the date thereof until the day of

Given under my hand the day and year first above written.

(Signed)

Govt. Agent.

NOTE.—This licence will cease to be in force on the day of

B.

I, *A.B.*, do truly declare that I reside at No. in the Street of the pettah of Colombo, and that I am the sole proprietor of the palanqueen carriage which I have applied to be registered at the Colombo cutcherry, and which has been registered number 15.

Declared at Colombo the day of

(Signed) *A.B.*

Before me

(Signed)

Govt. Agent.

10th April 1848.

69.

No. 11 OF 1848.

To indemnify the Governor and all persons acting under his authority for certain acts done during the existence of martial law in certain parts of this Island.

Preamble.

WHEREAS on or about the twenty-eighth day of July one thousand eight hundred and forty-eight a treasonable insurrection broke out within certain districts of this island, and by reason thereof it became necessary for the Governor to adopt the most vigorous and decisive measures for the immediate suppression of the said insurrection, and for that purpose to proclaim martial law in the said districts as herein-after mentioned: And whereas by a proclamation made by the said Governor, and bearing date the twenty-ninth day of the said month of July, it was ordered and declared that martial law should be in force within the district of Kandy in the Central Province from and after the publication in the said district of such proclamation until further orders: And whereas by a proclamation made by the said Governor, and bearing date the thirty-first day of the said month of July, it was ordered and declared that martial law should be in force within the district of Kurnegalle from and after the publication in the said district of such proclamation until further orders: And whereas by a proclamation made by the said Governor, and bearing date the twenty-fourth day of August one thousand eight hundred and forty-eight, it was ordered and declared that from and after the date of such proclamation martial law should cease, and be no longer in force within so much of the town and gravets of Kandy as is bounded on the west by Trincomalie Street, on the north by Hill Street and by the road called Lady Horton's Walk, on the east by Lady Horton's Walk and by a straight line drawn from it through the north-western angle of the eastern redoubt to the Kondesalle Road, and on the south by the new road and part of Kondesalle Road: And whereas by a proclamation of the said Governor, bearing date the fourth day of October one thousand eight hundred and forty-eight, it was ordered and declared, that from and after the tenth day of the said month of October martial law should wholly cease to be in or have force and effect within the said districts of Kandy and Kornegalle: And whereas during the time that martial law was in force in the said districts respectively it was and became necessary for the Governor and the persons acting under his orders or by his authority, or under the authority of such proclamations of martial law, to direct, authorize, do, and perform certain acts, matters, and things within the said districts which may not have been in conformity with the ordinary course of law therein, but which were necessary for the public safety: And whereas it is expedient that the Governor and all persons acting under his orders or by his authority or direction, or under the authority of such proclamations of martial law, should be indemnified in respect of such orders, directions, acts, matters, and things:

Martial Law.

Governor and persons acting under his orders indemnified for all acts done during the existence of martial law.

1. It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the said Governor, and also all persons acting under his orders or by his authority or direction, or under the authority of any such proclamation of martial law as aforesaid, shall be and they are hereby severally and jointly indemnified, freed, and discharged from and against all actions, suits, prosecutions, and penalties whatsoever for or on account or in respect of all or any acts, matters, and things whatsoever done, ordered, directed, or authorized by the said Governor, or by any person or persons acting under his order, direction, and authority, or under the authority of any such proclamation of martial law as aforesaid within the said districts, or either of them, during the existence therein of such martial law as aforesaid; so only and provided that such acts, matters, and things shall have been done, ordered, directed, or authorized *bonâ fide* in furtherance and in the execution of the objects for which martial law was proclaimed as aforesaid; and that no act done in pursuance of any order issued by the said Governor, or by the officer commanding Her Majesty's forces in the Kandyan provinces, for suppressing the said insurrection or for the safety and protection of the persons and properties of Her Majesty's peaceable and loyal subjects, or for the trial and punishment of treasons and other crimes and offences committed within the said districts, or for the arrest and detention in custody of persons engaged in such insurrection, or suspected thereof, or for the seizure, sequestration, or sale of the property of any such persons as last aforesaid, shall be questioned in any of Her Majesty's courts of civil or criminal jurisdiction in this island; and in order to prevent any doubt which might arise whether any act alleged to have been done in conformity to any such order was so done, it shall and may be lawful to and for the Governor or officer commanding Her Majesty's forces in the said provinces to declare such acts to have been done in conformity to such orders; and such declaration, signified by any writing under the hand of the said Governor or officer commanding Her Majesty's forces, shall be a sufficient discharge and indemnity to all persons concerned in any such acts, and shall in all cases be conclusive evidence that such acts were done in conformity to such orders.

Ordinance to be deemed a public Ordinance.

2. This Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of as such by all judges, magistrates, and others without being specially pleaded.

23rd October 1848.

70.

No. 12 OF 1848.

For making provision in certain respects touching the Admission of Advocates and Proctors; and for the annual Registration of practising Proctors.

Preamble.

WHEREAS it is expedient to make provision in certain respects relating to the admission of advocates and proctors in this island: And whereas for the better regulation of proctors practising in this island, it is expedient that every such proctor should be required to take out annually a certificate that the person named therein is a proctor, and authorized to practise as such:

Admission of advocates and proctors.

1. It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the time when this Ordinance shall come into operation when any order shall have been duly made for the admission of any person to act as an advocate or a proctor in any court of this island, the registrar of the Supreme Court of the said island shall and he is hereby required at the time of such admission to issue and deliver to the person so admitted a writing under the hand of such registrar and the seal of the said court, certifying the admission of such person as an advocate or a proctor as aforesaid, and specifying the court in which he has been admitted to act; and the several stamp duties specified in the table A. in the schedule to this Ordinance annexed shall be payable to Her Majesty on such admission: Provided that where any person duly admitted a proctor in any court of this island shall be afterwards admitted a proctor in any other court thereof, the latter admission shall be free of stamp duty; and no person not duly authorized to act as an advocate or proctor previously to the time when this Ordinance shall come into operation shall be entitled to act as an advocate or a proctor in any such court who has not obtained such written admission as aforesaid, anything in the charter or letters patent of King William the Fourth, dated the eighteenth day of February one thousand eight hundred and thirty-three, or in any rule or order of the said Supreme Court, or any usage or custom in anywise to the contrary notwithstanding.

Certificates to be granted yearly to proctors.

2. It shall be the duty of the registrar of the said Supreme Court, and of the several district judges of the respective district courts in this island, and they are hereby required, to grant or issue to every person entitled to act as a proctor in any such court who shall apply for the same a certificate that such person is a proctor of such court, and duly authorized to practise as such therein; and all such certificates shall be applied for and granted on or before the twenty-fifth day of March in every year, and shall be in force for one year and no longer, and the several stamp duties specified in the table B. in the schedule to this Ordinance annexed, shall be payable to Her Majesty on such certificates: Provided that if any proctor shall be entitled and shall intend to practise in courts situated at different places, he shall only be required to obtain one such stamped certificate yearly from the proper officer of any

court in which he shall intend to practise; provided, however, that if different rates of stamp duty are chargeable on certificates issued to proctors practising at such places, the certificate so to be obtained shall be taken out in some court of the place where the highest amount of duty is chargeable.

On application for certificate a declaration to be made and entered in a book.

3. For the purpose of obtaining such certificate as aforesaid a declaration in writing, signed by such proctor or by his partner, containing his name and place of residence and the court or courts of which he is then admitted a proctor, together with the date of his admission as a proctor, shall be delivered to the said registrar or district judge, who shall cause all the particulars in such declaration to be entered in a proper book to be kept for that purpose, which shall be open to the inspection and examination of all persons without fee or reward ; and the said registrar or district judge shall, as soon as conveniently may be after the delivery of such declaration, (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the roll of proctors,) deliver to the said proctor or his agent a certificate in the form hereunto annexed marked C., which shall bear such stamp as the same at the time of the granting thereof is hereby required to bear.

In case of neglect to obtain a stamped certificate, application to be made to the Supreme Court or a judge thereof.

4. If any proctor shall neglect to procure an annual stamped certificate authorizing him to practise as such within the time by this Ordinance appointed for that purpose, then and in such case the said registrar or district judge shall not afterwards grant a certificate to such proctor without the order of the Supreme Court, or a judge thereof, authorizing such registrar or district judge to issue such certificate; and it shall be lawful for the said Supreme Court or judge thereof to make such order upon such terms and conditions as they shall think fit.

Proctors practising without certificate incapable of recovering fees.

5. Any person who, as a proctor, after the twenty-fifth day of March next ensuing, shall sue, prosecute, defend, or carry on any action or suit, or any proceedings in any court, without having previously obtained such stamped certificate as aforesaid which shall be then in force, shall be incapable of obtaining any taxation of any bill of costs due to him, or of maintaining any action or suit for the recovery of any fee, reward, or disbursement for or in respect of any business, matter, or thing done by him as a proctor as aforesaid whilst he shall have been without such certificate as aforesaid, and shall also incur and be liable to a fine not exceeding twenty pounds.

On refusal to grant any certificate, application to be made to the Supreme Court.

6. In case any such registrar or district judge shall decline to issue any such certificate as aforesaid the party so applying for the same shall and may apply to the Supreme Court, or to any judge thereof, who are hereby respectively authorized to make such order in the matter as shall be just.

7. Has had its effect.

SCHEDULE.

Table A.

	£	s.	d.
Admission of any person to act as an advocate in this island - - - - - -	25	0	0
Admission of any person to act as a proctor in any court of this island - - - -	5	0	0

Table B.

Certificate to be taken out yearly by every person practising as a proctor in any court of this island.

If he shall practise in Colombo, Kandy, Galle, Jaffna, or Trincomalie, and shall have been admitted for the space of three years or upwards - - -	3	0	0
Or if he shall not have been admitted so long -	1	10	0
If he shall practise elsewhere in this island, and shall have been admitted for the space of three years or upwards - - - - - - -	2	0	0
Or if he shall not have been admitted so long -	1	0	0

Table C.

I, *A.B.*, registrar of the Supreme Court (*or* district judge of Kandy), do hereby certify that *C.D.*, of , hath this day delivered and left with me the declaration in writing signed by him (*or* by *E.F.* his partner on his behalf) required by the Ordinance No. of the year 1848 ; and I further certify that the said *C.D.* is duly enrolled as a proctor in the Supreme Court of this island (*or* in the district court of Kandy) and authorized to practise as such therein.

In witness whereof I have this *25th* day of *June 1848*, at *Colombo*, set my hand to this stamped certificate.

(Signed) *A.B.*
Registrar.

23rd October 1848.

71.

No. 16 of 1848.

An Ordinance to naturalize Gabriel Benedict Worms.

Preamble.

Whereas Gabriel Benedict Worms, an alien presently residing in this island, is desirous of being made a partaker of the advantages and privileges enjoyed by the natural-born subjects of our Lady Queen Victoria in this island, and it is expedient that the privileges of naturalization should be imparted to him, to be by him exercised and enjoyed within the limits of this island: And whereas by an Act made in the tenth and eleventh year of the reign of Her said Majesty, entitled " An Act for the Naturalization of

Aliens," it was enacted and declared, that all laws, statutes, and ordinances which shall thereafter be made and enacted by the legislatures of any of Her Majesty's colonies or possessions abroad, for imparting to any person or persons the privileges or any of the privileges of naturalization to be by any such person or persons exercised and enjoyed, within the limits of any such colonies and possessions respectively, shall within such limits have the force and authority of law, any law, statute, or usage to the contrary in anywise notwithstanding; provided nevertheless, that all such laws, statutes, and ordinances shall be made and enacted in such manner and form, and subject to and in conformity with all such rules as now are or hereafter shall be in force in respect of other laws, statutes, or ordinances enacted or to be enacted by any such legislatures respectively, and shall and may be confirmed or disallowed by Her Majesty in such and the same manner and subject to the same rules and regulations as extend or shall hereafter extend to the confirmation or disallowance of any other such laws, statutes, or ordinances:

Letters patent may issue granting to Gabriel Benedict Worms the rights of a British subject in this island.

1. It shall be lawful for the Governor to issue letters patent in the name of Her Majesty under the public seal of this island granting to the said Gabriel Benedict Worms (upon his taking the oath in the schedule hereunto annexed), within the limits of this island, all the rights and privileges of a British subject; and thereupon the said Gabriel Benedict Worms shall, within the limits of this island, enjoy and transmit to his descendants and those claiming by or through him all the rights and capacities which a natural-born subject of Her Majesty can enjoy or transmit.

Letters patent to be enrolled and oath to be taken.

2. Such letters patent shall be on a stamp of twenty-five pounds, and shall be enrolled for safe custody in the Supreme Court of this island; and that within sixty days from the day of the date of such letters patent the said Gabriel Benedict Worms shall take and subscribe the oath in the schedule hereunto annexed before some judge of the said Supreme Court; and the registrar of the said court shall make, sign, and deliver to the said Gabriel Benedict Worms, under the seal of the said court, a certificate of such oath having been duly taken and subscribed; and such certificate shall be sufficient evidence of the said Gabriel Benedict Worms having taken and subscribed such oath.

Ordinance, when to come into operation.

3. This Ordinance shall come into operation and take effect from and after the proclamation by the Governor in the Government Gazette of this island that the same has been ratified and confirmed by Her Majesty.

SCHEDULE.

I, Gabriel Benedict Worms, do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and will defend her to the utmost of my power against all conspiracies and attempts whatever which shall be

made against Her person, crown, or dignity, and I will do my utmost endeavour to disclose and make known to Her Majesty, Her heirs and successors, all treasons and traitorous conspiracies which may be formed against Her or them: And I do faithfully promise and swear to maintain, support, and defend to the utmost of my power the succession of the crown, which succession, by an Act intituled "An Act for the further limitation of the "Crown and better securing the rights and liberties of the "subject," is and stands limited to the Princess Sophia, Electress of Hanover, and the heirs of her body being Protestants; hereby utterly renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the crown of the realm of Great Britain and Ireland, and the colonies and dependencies thereof. So help me GOD.

13th November 1848.

72.

No. 17 of 1848.

An Ordinance to naturalize Maurice Benedict Worms.

13th November 1848.

73.

No. 18 of 1848.

To remove doubts concerning the validity of Grants of Lands in this Island.

Preamble.

Whereas the Governors of this island have from time to time been authorized and empowered by Her present Majesty, and Her Majesty's last royal predecessor, by commission under the great seal, to make and execute grants of waste lands belonging to the Crown within this island to private persons: And whereas Her said Majesty, and Her Majesty's royal predecessor, did appoint and direct that such grants should pass in the name of Her Majesty or Her Majesty's royal predecessor, as the case might be, under the public seal of this island, and should be made to such private persons, and to their heirs and assigns, and that such grants should be enrolled in such courts as Her Majesty and Her royal predecessor have respectively appointed and directed: And whereas in the exercise or supposed exercise of the powers and authorities in them so vested as aforesaid the respective Governors have from time to time made and issued grants or conveyances of lands situated in this island to divers private persons; but such grants or conveyances have not always been of waste lands, and have been made in the names of the said Governors and not in the name of Her Majesty or Her royal predecessor, and

have also been made to the grantee and to his heirs, executors, administrators, and assigns, and in many instances such grants or conveyances have not been duly enrolled in the proper court: And whereas doubts may be entertained whether such grants or conveyances made and issued as aforesaid, by reason of the informality thereof, are valid in the law or binding upon Her Majesty, Her heirs and successors: And whereas to remove any such doubts, and to quiet the titles of persons holding or entitled to hold any lands in this island so granted or conveyed as aforesaid, Her Majesty hath graciously signified Her royal will and pleasure, that all grants or conveyances of lands in this island made by any such Governor in the exercise or supposed exercise of the powers and authorities in them so vested as aforesaid, should be declared to be valid in the law, and binding upon Her Majesty, Her heirs and successors, notwithstanding any such informality as aforesaid, subject to the limitation herein-after contained:

Grants of lands heretofore issued by the governors of this island declared valid, notwithstanding certain informalities therein.

1. All grants or conveyances of land at any time heretofore made and issued by or in the name of any Governor of the island, in the exercise or supposed exercise of the powers and authorities vested in him by Her Majesty, or by Her Majesty's royal predecessor, of any lands situated in this island, whether the same were waste lands or otherwise, and notwithstanding such grants or conveyances shall not be in the name of Her Majesty or of Her Majesty's royal predecessor, or shall not be under the public seal of this island, and notwithstanding such grants or conveyances shall have been made to the grantee and to his heirs, executors, administrators, and assigns, and shall not have been duly enrolled in the proper court, shall be, and be deemed, taken, and held to be, and to have been, from the respective dates thereof, as valid and effectual in the law to grant and convey such lands, and shall be as binding upon Her said Majesty, Her heirs and successors, to all intents and purposes as if such grants or conveyances had been of lands which were waste, and had been made and issued in the name of Her Majesty, or of Her Majesty's royal predecessor, and had passed and been executed under the public seal of this island, and had been made to the respective grantees and to their respective heirs and assigns, and had been duly enrolled in the proper court, anything in any such commission, or any law, custom, or usage to the contrary in anywise notwithstanding: Provided always, that where in any case the invalidity of any such grant or conveyance shall be consequent upon the non-enrolment thereof in the proper court, nothing herein-before contained shall be deemed or taken to have rendered the same valid until the same shall have been enrolled in the district court of the district where the land thereby granted or conveyed shall be situate.

Such grants not hitherto duly enrolled to be enrolled in the district court.

13th November 1848.

74.

No. 24 OF 1848.

To regulate the felling and removal of Timber grown on the Crown Lands in this Island.

Preamble.

WHEREAS for the preservation of the Crown lands in this island, and the protection of the revenue derived from the timber grown thereon, it is expedient to make further provision relative to the felling and removal of such timber, and also relative to the removal of timber felled on the lands of private parties :

1. Repealing clause.

No person to cut timber on Crown land without a licence.

2. No person shall fell or remove any timber on or from any land in this island belonging to Her Majesty without having previously obtained a licence from the Government agent or some assistant Government agent of the province in which such land is situated, specifying the name and residence of the holder of such licence, the number and description of the trees to be felled, the place where, and the time when, and the terms and conditions on which the same are to be felled and removed ; and such licence shall be directed to such headman of the district or place where such land is situated as to the Government agent or assistant Government agent shall seem fit, and shall be as near as is material in the form in the schedule hereunto annexed marked A. ; and there shall be paid to such Government agent or assistant Government agent for the said licence by the party to whom the same is granted at and after such general rate, according to the description of timber, as shall be determined by the Governor, with the advice of the Executive Council, for and within each province of the island : Provided always, that it shall be lawful for such Government agent or assistant Government agent to refuse a licence to any person whomsoever if he shall deem it advisable so to do.

Licence to be produced to the headman to whom it is addressed.

3. Any such licensed person shall, by himself or by his servant or agent, before felling any of the timber mentioned in such licence, produce the same to the headman to whom it is addressed, and furnish him with a list of the names of every individual whom he intends employing to fell and remove the timber specified in such licence ; and it shall be the duty of such headman to writ upon such licence the date of its production to him, and to sign his name thereto, and thereafter to return the same to the person from whom he received it.

Timber not to be removed without notice to headman, who shall inspect the same and grant permit for its removal.

4. It shall not be lawful for any such licensed person remove to or cause to be removed any timber felled in virtue of such licence unless notice of his intention to remove the same shall have been given to the said headman ; and it shall be the duty of such headman to inspect such timber previously to its removal, and if he finds that it has been felled conformably with the licence to grant a permit to the holder of such licence for its removal, which shall be as near as is material in the form in the schedule hereunto annexed marked B. ; and the said headman shall forthwith deliver or transmit a duplicate of such permit to the Government agent or assistant Government agent by whom such licence was granted.

Timber.

Penalty on felling timber on Crown land without a licence, or before production of licence, or not in conformity therewith, &c.

5. If any person shall fell or remove any timber on or from any Crown land in this island without having obtained such licence, or contrary to the conditions on which a licence has been granted to him, or if any licensed person shall fell any timber on such land before producing his licence to the proper headman and furnishing him with a list of the names of every individual whom he intends employing to fell or remove the same, or shall employ any person for any such purpose whose name is not mentioned in such list, or shall fell any timber on land belonging to the Crown at any place other than that specified in his licence, or any description or larger number of trees than such as shall be therein specified, or shall fell or remove the timber mentioned in such licence after the time specified therein shall have expired, or before it shall have commenced, or shall remove any such timber without giving to the said headman the notice of his intention to remove the same herein-before required to be given, or without having obtained a permit for its removal from the said headman, or shall when engaged in the removal of any such timber refuse or neglect to produce such permit when thereunto required by such headman, or by any justice of the peace, constable, or police officer of the district or place where such removal is being effected ; or if any person shall have in his possession any timber felled on or removed from any Crown land, knowing that the same has been felled or removed contrary to the provisions of this Ordinance, every such person shall in any of such cases be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five pounds, and any such timber shall be confiscated ; and the court before which such offence is tried shall, if the timber has been seized, determine and adjudge whether the said timber has been legally seized : Provided always, that nothing herein contained shall extend or be construed to apply to any person acting *bonâ fide* as the servant or agent of any person to whom a licence has been duly granted.

In cases of emergency, timber may be removed after the expiry of the time mentioned in the licence, and within such time as the Government agent shall appoint.

6. In the event of any licensed person being unable from unforeseen accident or misfortune to remove any timber lawfully felled by him within the time mentioned in his licence, it shall be lawful for him to leave the same in the forest or other place where it was felled for removal at or within such time as shall be appointed for that purpose by the Government agent or assistant Government agent who granted the said licence, who shall on the application of such person to that effect note on the said licence the time so appointed by him ; and if such timber shall be removed in conformity with such appointment the person removing the same shall not incur the fine or forfeiture in the preceding section mentioned for having removed the same after the expiration of the time specified in his licence : Provided always, that it shall be lawful for such Government agent or assistant Government agent to refuse any such application if he shall deem it advisable so to do.

The provisions of the third and fourth sections may in certain cases be dispensed with.

7. And whereas the provision contained in the third section of this Ordinance, requiring the holder of any such licence to furnish the headman to whom it is addressed with a list of the names of every individual whom he intends employing to fell and remove

the timber specified therein, and the provisions contained in the fourth section of this Ordinance cannot be enforced in some of the remote districts of this island without great and serious inconvenience ; it is therefore hereby further enacted that it shall be lawful for the Government agent or assistant Government agent granting any licence under the provisions of this Ordinance in any case in which he shall deem it advisable so to do, to state in writing in or upon the licence that the holder thereof shall not be required to furnish the headman to whom the same is addressed with a list of the names of every individual whom he intends employing to fell and remove the timber specified therein, nor to give notice to such headman of his intention to remove any such timber, nor to obtain a permit from such headman for the removal thereof, as directed by the third and fourth sections of this Ordinance ; and in any such case the holder of such licence shall not incur the fine or forfeiture in the fifth section of this Ordinance mentioned for not having furnished any such list, or for not having given such notice, or for not having obtained such permit, as the case may be, anything contained in the third, fourth, and fifth sections of this Ordinance to the contrary notwithstanding.

Private timber not to be removed without a permit.

8. And whereas much valuable timber is felled on the Crown lands in this island and removed therefrom without any authority under pretext that the same has been felled on the lands of private parties, and it is expedient to prevent as far as practicable the continuance of these frauds ; it is therefore further enacted that it shall not be lawful for any person to remove from his own land or from the land of any other private party any timber which may have been felled thereon without having obtained a permit authorizing such removal, and which shall accompany the timber so removed, and shall be as near as is material in the form in the schedule hereunto annexed marked C. ; and such permit shall be granted by some headman of the district or place where such land is situated on the joint application of the owner of the timber and the owner or occupier of the land from which the same is to be removed, or in case such timber belongs to the owner or occupier of such land then on the application of such owner or occupier ; and if any person shall contrary to the provisions of this clause remove from his own land or from the land of any other private party any timber felled thereon without having obtained a permit for such removal, or after the time therein specified shall have expired, or shall when engaged in the removal of any such timber refuse or neglect to produce such permit when thereunto required by any justice of the peace, headman, constable, or police officer of the district or place where such removal is being effected, he shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five pounds, and any such timber shall be confiscated ; and the court before which such offence is tried shall, if the timber so illegally removed has been seized, determine and adjudge whether the said timber has been legally seized.

Penalty.

Governor may by proclamation exempt

9. But inasmuch as the restrictions on the removal of timber the property of private individuals in the preceding section contained may not be found necessary for the protection of Crown

property in all parts of this island, it is therefore further enacted, that it shall be lawful for the Governor, with the advice of the Executive Council, by any proclamation to be by him from time to time for that purpose issued and published in the Government Gazette of this island, to exempt any particular district or place to be mentioned in such proclamation from the operation of the preceding section, either as regards the removal of timber generally or of any particular description of timber; and any such proclamation, with the like advice, from time to time to alter, amend, or revoke, as occasion may require; and no person removing from his own land, or from the land of any other private party, in accordance with the provisions contained in any such proclamation, any timber which may have been felled thereon, shall incur the fine or forfeiture in the preceding section mentioned, for any breach of the provisions thereof, if such land shall be situated and such removal shall be effected and completed within the district or place specified in any such proclamation, anything in the preceding section to the contrary notwithstanding.

particular districts from the operation of the preceding section.

10. It shall be lawful for all headmen and police officers within their respective jurisdictions, and they are hereby required, to arrest and take before the police court having jurisdiction any person, not being the servant or agent of some person licensed to fell or remove timber, whom they shall find felling or removing timber on or from any Crown land without a licence, or contrary to the tenor and effect thereof, or removing timber without having a permit to remove the same as aforesaid, in those cases in which a permit is required; and it shall also be the duty of any such headman or police officer to seize any timber hereby declared to be confiscated, and also any timber felled on Crown land which shall not have been removed by the party felling the same within the time specified in his licence or appointed by such Government agent or assistant Government agent as aforesaid for the removal thereof; and all timber seized as aforesaid shall be deemed and taken to be forfeited to Her Majesty, and may be sold under the orders of the Government agent or any assistant Government agent of the province in which the same was seized, for account of Government, unless the person from whom the same was seized shall, within fourteen days from the day of seizing the same, give notice in writing to such Government agent or assistant Government agent that he disputes the legality of such seizure, in which case such sale shall be stayed until the legality of such seizure shall have been determined by the court before which any such person may be tried for any offence against the provisions of the fifth section of this Ordinance; and any headman or police officer who shall, without lawful excuse, neglect or refuse to do and perform any of the duties, matters, and things imposed on him by this Ordinance, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five pounds.

Headman arrest persons felling timber without licence;

and to seize timber illegally felled or not removed in due time.

11. If any person shall forge or counterfeit, or shall cause or procure to be forged or counterfeited, any licence or part of any licence issued under the provisions of this Ordinance, or any writing or signature which any Government agent or assistant

Penalty for forging licence.

Government agent is by this Ordinance authorized or required to make or put on any such licence, or if any person shall knowingly and without lawful excuse (the proof of which excuse shall lie on the party accused) have in his possession any false, forged, or counterfeit licence, or any genuine licence containing any such forged or counterfeit writing or signature, resembling or intended to resemble, either wholly or in part, any licence which at any time whatever hath been or shall or may be issued or used under the provisions of this Ordinance, or any writing or signature of any Government agent or assistant Government agent which shall or may be made or put on any licence issued under the provisions of this Ordinance, then and in every such case the person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be liable to be imprisoned with or without hard labour for any term not exceeding five years.

Proof of licence; and of the places where timber was felled.

12. If in any prosecution or proceeding under this Ordinance any question shall arise as to whether a licence has been obtained within the meaning thereof, the proof that such licence has been obtained shall lie on the party against whom such prosecution or proceeding shall be had; and if in any such prosecution or proceeding any question shall arise as to whether the timber felled or removed was felled or removed on or from land belonging to Her Majesty, the proof that the same was not felled or removed on or from land belonging to Her Majesty shall lie on the party against whom such prosecution or proceeding shall be had; and if any question shall arise in any such prosecution or proceeding as to the title to the land on or from which any timber has been felled or removed, the Court which has jurisdiction to impose the fine that may have been incurred by the party prosecuted shall, for the purposes of the said prosecution, have jurisdiction to try and determine any such question of title: Provided always, that the judgment or decision of such court on any such question shall not be received as evidence of title or pleaded in bar in any civil suit or proceeding in which the title to the said land may be put in issue; provided also, that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused against any person who may have made a vexatious complaint; and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance.

The court which has jurisdiction over the offence may, if necessary, try the question of title to the land.

Proviso.

Informer's share of penalty.

13. One half of all fines and forfeitures actually recovered and realized under the provisions of this Ordinance shall go to our Lady the Queen, and the other half to the informer.

Limitation of prosecution.

14. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by the police court unless the same shall be commenced within three calendar months from the time of the commission of such offence.

Ordinance not to extend to cocoa-nut trees or firewood.

15. Nothing in this Ordinance contained shall extend or apply, or be deemed or taken to extend or apply, to cocoa-nut or areca-nut trees, nor to brushwood or wood commonly used for

and cut for the purpose of being used in this island as firewood, nor to stakes cut for the purpose of being used in this island for fencing land, nor to wood cut for the purpose of making ploughs or other agricultural implements in common use in this island: Provided, however, that nothing in this section contained shall be deemed or taken to allow of any satinwood, ironwood, ebony, jackwood, or other valuable description of timber tree being cut or removed contrary to the provisions of this Ordinance on the plea that such timber tree has been cut or removed for firewood or for fencing land; and provided further, that it shall be lawful for the Governor, with the advice of the Executive Council, by any proclamation to be by him from time to time issued and published in the Government Gazette of this island, to set apart and define any tract or tracts of Crown land as reserved forest land, within the limits of which no wood shall be cut or removed, either for firewood, or for fencing land, or for making ploughs or other agricultural implements, or for any other purpose whatsoever; and also in like manner to set apart and define any tract or tracts of Crown land within the limits of which no satinwood, ironwood, ebony, jackwood, or other valuable description of timber tree shall be cut or removed for the purpose of making ploughs or other agricultural instruments aforesaid.

16. Has had its effect.

SCHEDULE A.

LICENCE TO FELL TIMBER.

To *A.B.* residing at korale of in the district of (*or as the case may be*).

No.

Take notice that licence is hereby granted to *C.D.* of in the district of to fell and remove from the Government forest land at in your district, between the day of and the day of the following timber (*here insert the number and description of trees in words at length*), under and subject to the conditions herein-after set forth; that is to say,

1st. (*here insert the conditions agreed upon*).

Government Agent's Office,
this day of

(Signed) *Govt. Agent.*

Produced to me by the said *C.D.* this day of

(Signed) *A.B.*
Korale of

On the application of the said *C.D.* permission is hereby given to him to remove the above timber on or before the day of next.

Dated this day of 18

(Signed) *Govt. Agent.*

B.

Permit to remove Timber grown on Crown Land.

No. of Licence

C.D. of in the district of has permission to remove from the Government forest land at in the district of , the following timber felled by him under the above licence (*here insert a description of the timber proposed to be removed*) to in the district of

Dated at this day of 18

(Signed) *A.B.*

Korale of

C.

Permit to remove Timber from Private Lands.

E.F. of in the district of has permission to remove from the garden called in (*or as the case may be*) the following timber (*here insert the number and description of trees in words at length*) to in the district of within days from the date hereof.

Dated at this day of 18

(Signed) *A.B.*

Korale of

23rd December 1848.

75.

No. 1 of 1849.

An Ordinance to naturalize Johann Heinrich Sonnenkalb.

30th January 1849.

76.

No. 2 of 1849.

An Ordinance to naturalize Gottlieb Arnold Cruwell.

3rd October 1849.

77.

No. 5 of 1849.

To give Jurisdiction to the Police Courts in cases of Cattle Trespass.

Preamble.

Whereas by the Ordinance No. 2 of the year 1835, entitled "To provide for the protection of cultivated and enclosed lands "and of the public roads and canals against the trespass and "depredations of stray cattle, goats, sheep, and pigs," jurisdiction is given to the several district courts to hear and inquire into cases of cattle trespass, and to award damages and impose fines

thereunder; and by the said Ordinance certain things are also required to be done before district courts or by or before the district judges in relation to prosecutions and complaints relating to such trespasses: And whereas it is expedient that the powers, jurisdiction, and authority thereby vested in or granted to the said district courts, or to the judges thereof, should hereafter be vested in and exercised by the several police courts of this island, and by the several police magistrates within their respective districts:

Police courts to have cognizance of cases of cattle trespass.

1. It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the promulgation of this Ordinance all actions, prosecutions, complaints, matters, or things which by the said Ordinance No. 2 of the year 1835 are made cognizable by or are required to be done before the district courts, shall and may be inquired into, tried, done, and determined by and before the several police courts within their respective districts, and that the said police courts shall within their respective districts have full power, jurisdiction, and authority to award any damages and impose any fines which any person or persons may have become liable to pay under any of the provisions of the said Ordinance as fully and effectually to all intents and purposes as the said district courts could or might have had before the promulgation of this Ordinance, and that from and after such time as aforesaid the several district courts shall cease to have and exercise the powers, jurisdiction, and authority vested in them by the said Ordinance, and hereby vested in the said police courts respectively, anything contained in the said Ordinance No. 2 of 1835 to the contrary notwithstanding: Provided, however, that any prosecution or proceeding which may have been commenced or taken under the said Ordinance before any district court prior to the promulgation of this Ordinance shall be deemed to be as valid and effectual to all intents and purposes and shall and may be continued and carried on in such and the same manner as if this Ordinance had not been passed.

Proceedings already commenced in district court may be continued and carried on therein.

Police magistrates may exercise certain powers formerly vested in the district judges.

2. All the powers and authorities which by the said Ordinance No. 2 of the year 1835 are vested in and may now be lawfully exercised by the several district judges shall, from and after the promulgation of this Ordinance, be vested in and may be lawfully exercised by the several police magistrates within their respective districts; and that from and after such time as aforesaid the said powers and authorities shall no longer be vested in or exercised by the said district judges respectively, anything contained in the said Ordinance No. 2 of 1835 to the contrary notwithstanding.

10th October 1849.

78.

No. 6 of 1850.

For the more effectual Suppression of the Crime of Cattle Stealing, and for authorizing district courts to hear, try, and determine charges relating to the same.

Preamble.

Whereas the crime of cattle stealing has of late increased to an alarming extent, and the periodical holding of the criminal

sessions of the Supreme Court has been found to be, especially in the remote districts of the island, wholly inadequate for the suppression of the said crime: And whereas it is expedient that greater facilities than at present exist should be provided for the speedy apprehension, trial, and punishment of persons guilty of the said crime, and for that purpose that district courts should be authorized to hear, try, and determine charges relating to the same:

District courts to try charges of cattle stealing.

1. It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the several district courts shall within their respective districts have full power and authority to hear, try, and determine all charges and complaints of cattle stealing, and all charges and complaints of receiving stolen cattle knowing the same to have been stolen, and on conviction of any person charged with either of the said crimes to punish such offender in such manner as shall be competent to the said courts.

Demanding or taking reward for helping to recovery of stolen cattle.

2. Every person who shall corruptly demand or take any money or reward, directly or indirectly, under pretence of or upon account of helping or of having helped any person to the recovery of any stolen cattle, shall (unless he cause the offender to be apprehended and brought to trial) be guilty of an offence, and being convicted thereof shall be liable to twelve calendar months imprisonment, with or without hard labour, or to whipping not exceeding fifty lashes, or to a fine not exceeding twenty pounds.

Penalty on headman refusing or neglecting to report cases of cattle stealing, or to assist in detecting the perpetrators thereof.

3. If any headman shall, without sufficient excuse (the proof of which shall be upon him), neglect or refuse to report without any unnecessary delay to the nearest justice of the peace all cases or charges of cattle stealing, or of receiving stolen cattle knowing the same to have been stolen, occurring within his district which may have been brought to his knowledge, or shall refuse or wilfully neglect to aid and assist to the utmost of his power in the detection and apprehension of the accused, when called upon to render such assistance, every such headman shall be guilty of an offence, and shall, on conviction thereof before any court of competent jurisdiction, be liable to a fine of five pounds, and to imprisonment with or without hard labour for three months.

4. Has had its effect.

20th December 1850.

79.

No. 3 OF 1851.

An Ordinance to naturalize Friedrich Ludwig Straube.

7th November 1851.

80.

No. 1 OF 1852.

For shortening the Language used in Ordinances.

WHEREAS it is expedient to shorten the language used in Ordinances; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1. That the sections into which any Ordinance shall be divided, where there are more enactments than one, shall be deemed to be substantive enactments without any introductory words.

Introductory words to the sections of Ordinances not required.

2. That in all Ordinances words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided; and the word "Governor" shall be held to mean the person lawfully administering the government of this island for the time being; and the words "this island," "this colony," and "the island of Ceylon," shall be held to mean the island of Ceylon and the dependencies thereof; and the word "Ordinance" shall be held to include also regulation; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended; and the word "land" shall include messuages, tenements, and hereditaments, houses, and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit," shall include affirmation, declaration, affirming, and declaring, in the case of persons by law allowed to declare or affirm instead of swearing.

Interpretation of certain words for future Ordinances.

3. That when any Ordinance repealing in whole or in part any former Ordinance or regulation is itself repealed, such last repeal shall not revive the Ordinance or the regulation, or the provisions before repealed, unless words be added reviving such Ordinance, regulation, or provisions.

Repealed Ordinances not revived by the repeal of the repealing Ordinance.

4. That whenever any Ordinance shall be enacted repealing in whole or in part any former Ordinance or regulation, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made Ordinance.

Repealed provisions of an Ordinance to remain in force until the substituted provisions come into force.

5. Every Ordinance enacted after the commencement of this Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such Ordinance.

All Ordinances to be deemed public Ordinances unless the contrary is expressed.

6. Has had its effect.

25th August 1852.

81.

No. 3 of 1852.

To repeal the Regulation No. 8 of 1809, and to remove certain restrictions peculiar to the tenure of Service Parveny Lands.

Preamble.

Whereas it is expedient to repeal the regulation No. 8 of 1809, and to remove certain restrictions, peculiar to the tenure of Service Parveny Lands; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Repeal of Regulation No. 8 of 1809.

1. The Regulation No. 8 of 1809, entitled "For declaring the "tenure of Service Parveny Lands, and to prevent the same "from being aliened or incumbered," is hereby repealed.

Succession in female as well as in male heirs.

2. The privilege of succeeding to Service Parveny Lands shall be in the female as fully as in the male heirs of all persons who shall die possessed of such lands after this Ordinance shall have come into operation, and such lands shall not revert to the Crown on the failure of male heirs; and such lands are hereby declared to be henceforth capable of alienation by gift, sale, devise, or other act, or of being charged or incumbered with any debt whatever; and such lands are hereby further declared to be henceforth liable to be sold by virtue of any writ of execution or other legal process of any court of this island.

Former sale and possession under writ of execution not invalid.

3. No sale of any Service Parveny Land, or of any share thereof heretofore effected under any writ of execution or other legal process of any court of this island, and no sale or alienation of any such land, or of any share thereof heretofore effected by any person in the lawful possession thereof, shall be deemed to be invalid by reason of anything in the said Regulation No. 8 of 1809 contained, or by reason of such land being Service Parveny Land, unless some suit or other proceeding at law touching the validity of such sale or alienation shall be pending at the time that this Ordinance shall come into operation, in every which excepted case such suit or proceeding shall be determined in such and the same manner as it would have been determined if this Ordinance had not been enacted.

Rate of tax not affected.

4. Nothing in this Ordinance contained shall or shall be construed to affect the rate of tax to which any Service Parveny Lands may be liable.

5. Has had its effect.

25th August 1852.

82.

No. 5 of 1852.

To introduce into this Colony the Law of England in certain cases, and to restrict the operation of the Kandyan Law.

Preamble.

Whereas it is expedient that the law of England should be observed as the law of this colony in certain respects, and that

the laws of the Kandyan provinces should be assimilated as far as may be to the laws of the Maritime provinces; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Law of England to be observed in maritime matters;

1. The law to be hereafter administered in this colony in respect of all contracts or questions arising within the same relating to ships and to the property therein, and to the owners thereof, the behaviour of the master and mariners, and their respective rights, duties, and liabilities, relating to the carriage of passengers and goods by ships, to stoppage in transitu, to freight, demurrage, insurance, salvage, average, collision between ships, to bills of lading, and generally to all maritime matters, shall be the same in respect of the said matters as would be administered in England in the like case at the corresponding period, if the contract had been entered into or if the act in respect of which any such question shall have arisen had been done in England, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted.

and in respect of bills of exchange, &c.

2. The law to be hereafter administered in this colony in respect of all contracts and questions arising within the same upon or relating to bills of exchange, promissory notes, and cheques, and in respect of all matters connected with any such instruments, shall be the same in respect of the said matters as would be administered in England in the like case at the corresponding period, if the contract had been entered into or if the act in respect of which any such question shall have arisen had been done in England, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted.

Proviso in regard to interest;

3. Provided that no person shall be prevented from recovering on any contract or engagement any amount of interest expressly reserved thereby, or from recovering interest at the rate of nine per cent. per annum on any contract or engagement, or in any case in which interest is payable by law and no different rate of interest has been specially agreed upon between the parties, but the amount recoverable on account of interest or arrears of interest shall in no case exceed the principal: Provided also, that nothing in the preceding sections contained shall be deemed to deprive any plaintiff of his right according to the law heretofore administered in the Maritime provinces of this colony to obtain an interlocutory or provisional decree in any case in which he might have obtained the same before the passing of this Ordinance.

and in regard to provisional sentences.

Proviso in regard to contracts made abroad.

4. Provided further, that nothing in the preceding sections contained shall alter or affect the law in regard to any question arising for adjudication within this colony upon a contract made abroad, which question shall be determined as if this Ordinance had not been enacted.

If the Kandyan law is silent the

5. Where there is no Kandyan law or custom having the force of law applicable to the decision of any matter or question arising

law of the Maritime provinces to govern.

for adjudication within the Kandyan provinces, for the decision of which other provision is not herein specially made, the court shall in any such case have recourse to the law as to the like matter or question in force within the Maritime provinces, which is hereby declared to be the law for the determination of such matter or question.

The law of namptissement to extend to the Kandyan provinces.

6. The law administered within the Maritime provinces, whereby a plaintiff is entitled in certain cases to an interlocutory or provisional decree, adjudging the defendant to pay the amount of the plaintiff's claim under proper security that the plaintiff shall repay the same with interest in case by the final judgment on the merits such sum shall not be found to be due or judgment shall be given for the defendant, called the law of namptissement, or provisional sentence, is hereby declared to extend and may be applied to the like cases in actions arising within the Kandyan provinces.

The criminal law of the Maritime provinces to extend to the Kandyan provinces.

7. The law administered within the Maritime provinces upon the trial and conviction of any person for any crime or offence committed within such provinces is hereby declared to extend and shall be applied to the like crimes and offences committed within the Kandyan provinces, unless by any law now in force in this colony or in any part thereof, or hereafter to be enacted, other provision has been or shall be made in that behalf.

The succession ab intestato to the property of Europeans in the Kandyan provinces to be the same as in the Maritime provinces.

8. The inheritance and succession to the real property situated within the Kandyan provinces of persons commonly known as Europeans, and of their descendants, and of persons commonly known as burghers, who may die possessed of or entitled to any such property, and without disposing of the same by will, and the inheritance and succession to the personal property of such persons who at the time of their death shall be domiciled within the Kandyan provinces, and who may die possessed of or entitled to any such property, and without disposing of the same by will, shall be regulated and determined in such manner and according to such laws and usages as would have been the case had such real property been situated, or had the deceased been domiciled at the time of his death, within the Maritime provinces, anything contained in the sixth section of the Ordinance No. 21 of 1844, entitled "An Ordinance to make better provision for the disposal of landed property," to the contrary notwithstanding.

Marriages of Europeans not valid in the Maritime provinces to be invalid in the Kandyan provinces.

9. No marriage contracted between persons commonly known as Europeans or their descendants, or persons commonly known as burghers, or between any such persons and any Singhalese (whether of the Maritime or Kandyan provinces) or any Asiatic within the Kandyan provinces, shall be valid, unless such marriage would have been valid if contracted within the Maritime provinces.

The Mahomedan code in force in the Maritime provinces extended to Mahome-

10. The code of Mahomedan laws, entitled "Special laws concerning Moors or Mahomedans," promulgated on the 5th day of August 1806, and ordered to be observed throughout the whole of the province of Colombo, shall extend and be applied to the like cases, matters, and things between Mahomedans residing

within the Kandyan provinces and in other parts of this colony, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted. dans in the Kandyan provinces.

11. Has had its effect.

8th September 1852.

83.

No. 9 OF 1852.

To amend the Law of Evidence.

WHEREAS an Act was passed in the fourteenth and fifteenth years of Her present Majesty, chapter ninety-nine, to amend the law of evidence of England, and the said Act is in force in this colony in virtue of the provisions contained in the second section of the Ordinance No. 3 of 1846, but some of the provisions of the said Act are not applicable to the circumstances of this colony, and it is therefore desirable to declare that the said Act shall not be in force in this colony in virtue of the said Ordinance, but to re-enact such parts of it as are applicable; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1. The Act passed in the session of Parliament holden in the fourteenth and fifteenth years of Her present Majesty, chapter ninety-nine, shall not in virtue of the Ordinance No. 3 of 1846 be in force in this colony; but nothing herein contained shall be construed to affect the validity and operation of the eleventh section of the said Act, which section in virtue of the provisions of the said Act is in force in this colony, and is as follows: Act 14 & 15 Vict. c. 99. not to be in force in this island except as therein provided.

"XI. Every document which by any law now in force, or "hereafter to be in force, is or shall be admissible in evidence "of any particular in any court of justice in England or Wales, "or Ireland, without proof of the seal, or stamp, or signature "authenticating the same, or of the judicial or official character "of the person appearing to have signed the same, shall be "admitted in evidence to the same extent and for the same "purposes in any court of justice of any of the British colonies, "or before any person having in any of such colonies, by law "or by consent of parties, authority to hear, receive, and ex-"amine evidence, without proof of the seal or stamp or signa-"ture authenticating the same, or of the judicial or official "character of the person appearing to have signed the same."

2. Repealing clause.

3. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, the parties thereto and the persons in whose behalf any such suit, action, or other proceeding may be brought or defended, shall, except as herein-after excepted, be competent Parties to be admissible witnesses.

and compellable to give evidence on behalf of either or any of the parties to the said suit, action, or other proceeding, anything contained in the said Ordinance No. 3 of 1846, or in the Ordinance No. 10 of 1843, entitled "An Ordinance for the establishment " of courts of inferior civil jurisdiction, to be called Courts of " Requests," or in the Ordinance No. 12 of 1843, entitled "An " Ordinance to make certain alterations in the constitution of " District Courts," or in any rule or order of court to the contrary notwithstanding.

Nothing herein to compel any person charged with a criminal offence to give evidence tending to criminate himself.

4. But nothing herein contained shall render any person who in any criminal proceeding is charged with the commission of any crime or offence competent or compellable to give evidence for or against himself, or shall render any person compellable to answer any question tending to criminate himself.

Not to apply to proceedings in consequence of adultery.

5. Nothing herein contained shall apply to any action, suit, or proceeding in any court in this island instituted in consequence of adultery or malicious desertion, or to any action for separation à mensâ et thoro, or to any action for breach of promise of marriage.

Not to compel the Queen's advocate to give evidence in suits by or against him.

6. Nothing herein contained shall render the Queen's Advocate compellable to give evidence in any action, suit, or proceeding in any court in this island instituted by or against such officer in his official capacity.

Supreme and district court may compel inspection of documents in certain cases.

7. Whenever any action or other legal proceeding shall henceforth be pending in the Supreme Court or in any district court of this island, such court and each of the judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and if necessary to take examined copies of the same, or to procure the same to be duly stamped in all cases in which in virtue of the said Act of the fourteenth and fifteenth year of Her present Majesty, chapter ninety-nine, section six, the supreme courts of common law at Westminster are now authorized to compel inspection of documents.

Foreign and colonial acts of state, judgments, &c. proveable by certified copies without proof of seal or signature or judicial character of person signing the same.

8. All proclamations, treaties, and other acts of state of any foreign state or of any British colony, and all judgments, decrees, orders, and other judicial proceedings of any court of justice in any foreign state, or in the United Kingdom of Great Britain and Ireland, or in any British colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such court, may be proved in any court of justice or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, either by examined copies or by copies authenticated as herein-after mentioned; that is to say, if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the foreign state or British colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any foreign court, or of any court of justice in Great

Britain or Ireland, or of any colonial court, or an affidavit, pleading, or other legal document filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of the court to which the original document belongs, or, in the event of such court having no seal, to be signed by the judge, or, if there be more than one judge, by any one of the judges of the said court, and such judge shall attach to his signature a statement in writing on the said copy that the court whereof he is a judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as herein-before respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the seal where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statements.

Registers of British vessels and certificates of registry admissible as primâ facie evidence of their contents without proof of signature, &c.

9. Every register of a vessel kept under any of the Acts relating to the registry of British vessels may be proved in any court of justice or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original; and every such register or such copy of a register, and also every certificate of registry granted under any of the Acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence in any court of justice or before any person having by law or by consent of parties authority to hear, receive, and examine evidence as *primâ facie* proof of all the matters contained or recited in such register when the register or such copy thereof as aforesaid is produced, and of all the matters contained or recited in or endorsed on such certificate of registry when the said certificate is produced.

When necessary to prove a conviction or acquittal not necessary to produce record, but it may be certified under the hand of registrar.

10. Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of any person charged with any crime or offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof; but it shall be sufficient that it be certified or purport to be certified under the hand of the registrar or other officer having the custody of the records of the court where such conviction or acquittal took place, or by the deputy of such registrar or other officer, that the paper produced is a copy of the record of the information, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.

Proof of deposition of deceased or absent witness.

11. If on the prosecution of any person for any crime or offence it shall be proved that any witness whose deposition shall have been taken before any justice of the peace, coroner, or deputy coroner in this colony is dead, or so ill as not to be able to travel, and if it shall also be proved that such deposition was taken in the presence of the accused, or if taken in his absence was read

over to him in the presence of such witness, and that the accused had a full opportunity of cross-examining such witness, then, if such deposition purports to be subscribed by such witness, by the justice, coroner, or deputy coroner by or before whom the same purports to have been taken, and by the interpreter (if any shall have been employed) who interpreted the same, it shall be lawful to read such deposition as evidence in such prosecution without further proof thereof, unless it shall be proved that such deposition was not in fact subscribed by the witness, by the justice, coroner, or deputy coroner, and by the interpreter (if any) purporting to sign the same.

Proof of prisoner's statement.

12. On the prosecution of any person for any crime or offence the statement of any such person taken down in writing by any justice of the peace, coroner, or deputy coroner in this colony, if the said statement purports to have been made after the person making the same had been cautioned in the manner required by law, and also purports to be subscribed by the justice, coroner, or deputy coroner before whom the same purports to have been made, and by the interpreter (if any shall have been employed) who interpreted the same, may, if necessary, be given in evidence against such accused person without further proof thereof, unless it shall be proved that the justice, coroner, or deputy coroner, or the interpreter (if any) purporting to sign the same did not in fact sign the same: Provided, that nothing herein contained shall prevent the prosecutor in any case from giving in evidence any admission or confession or other statement of the person accused or charged, made at any time, which by law would be admissible as evidence against such person.

Examined or certified copies of documents admissible in evidence.

13. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no statute or ordinance exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in any court of justice or before any person now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is intrusted, and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, provided it be made to appear to such officer that such document is required to be produced in a suit pending in any court of justice.

Certifying a false document an offence.

14. If any officer authorized or required by this Ordinance to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of an offence and be liable upon conviction to imprisonment for any term not exceeding eighteen months.

Court, &c. may administer oaths.

15. Every court, judge, justice, officer, commissioner, arbitrator, or other person now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, is hereby

empowered to administer an oath (or affirmation where the same may legally be received in lieu of an oath) to all such witnesses as are legally called before them respectively.

16. If any person shall forge the seal, stamp, or signature of any document in this Ordinance mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of a crime, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not exceeding three years nor less than one year with hard labour; and whenever any such document shall have been admitted in evidence by virtue of this Ordinance, the court or the person who shall have admitted the same may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some officer of the court or other proper person for such period and subject to such conditions as to the said court or person shall seem meet.

Punishment of persons forging seals, stamp, or signature of certain documents, or wilfully uttering the same.

17. The words "British Colony" as used in this Ordinance shall apply to all the British territories under the Government of the East India Company, and to the Islands of Guernsey, Jersey, Alderney, Sark, and Man, and to all other possessions of the British Crown, wheresoever and whatsoever.

Interpretation of "British Colony."

18. Has had its effect.

8th September 1852.

84.

Ordinance No. 12 of 1852.

For further improving the Administration of Criminal Justice.

Whereas offenders occasionally escape conviction on their trials by reason of the technical strictness of criminal proceedings in matters not material to the merits of the case: And whereas such technical strictness may safely be relaxed in many instances, so as to ensure the punishment of the guilty, without depriving the accused of any just means of defence: And whereas a failure of justice occasionally takes place on the trials of persons charged with crimes and offences by reason of variances between the statement in the information on which the trial is had and the proof of names, dates, matters, and circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot have been prejudiced in his defence: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1. From and after the coming of this Ordinance into operation whenever on the trial of any information for any crime or offence there shall appear to be any variance between the statement in such information and the evidence offered in proof thereof, it

The court may amend variances not material to the merits of the

case, and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.

shall and may be lawful for the court before which the trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such information to be amended according to the proof, by some officer of the court or other person, both in that part of the information where such variance occurs, and in every other part of the information which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury as such court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be prosecuted for perjury and otherwise, as if no such variance had occurred: Provided that in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such court to respite the recognizances of the witnesses, and of the defendant and his surety or sureties, if any, accordingly; in which case the witnesses shall be bound to attend to give evidence, and the defendant shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and give evidence at the time and place to which such trial shall have been so postponed: Provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

Verdicts and judgments valid after amendments.

2. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Ordinance shall be of the same force and effect in all respects as if the information had originally been in the same form in which it was after such amendment was made.

Records to be drawn up in amended form, without noticing the amendments.

3. If it shall become necessary at any time for any purpose whatsoever to draw up a formal record in any case where any amendment shall have been made under the provisions of this Ordinance, such record shall be drawn up in the form in which the information was after such amendment was made, without taking any notice of the fact of such amendment having been made.

The means by which the injury was inflicted need not be specified in informations for murder and manslaughter.

4. In any information for murder or manslaughter preferred after the coming of this Ordinance into operation, it shall not be necessary to set forth the manner in which or the means by which the death of the deceased was caused; but it shall be sufficient in every information for murder to charge that the defendant did unlawfully, wilfully, and of his malice aforethought, kill and murder the deceased; and it shall be sufficient in every information for manslaughter to charge that the defendant did unlawfully and wilfully kill and slay the deceased.

Forms of information in cases of forgery and uttering, stealing or obtain-

5. In any information for forging, uttering, stealing, destroying, or concealing, or for obtaining by false pretences any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the

purport thereof, without setting out any copy or facsimile thereof, or otherwise describing the same or the value thereof.

ing, by false pretences any instrument.

6. In all other cases wherever it shall be necessary to make any averment in any information as to any instrument, whether the same consists wholly or in part in writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or facsimile of the whole or any part thereof.

In other cases.

7. From and after the coming of this Ordinance into operation it shall be sufficient in any information for forging, uttering, offering, disposing of, or putting off any instrument whatsoever, or for obtaining or attempting to obtain any property by false pretences, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offences in this section mentioned it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.

Intent to defraud particular persons need not be alleged or proved in cases of forgery, uttering, or false pretences.

8. And whereas offenders occasionally escape conviction by reason that such persons ought to have been charged with attempting to commit offences, and not with the actual commission thereof: It is enacted, that if on the trial of any person charged with any crime or offence it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the crime or offence charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an information for attempting to commit the particular crime or offence charged in the said information; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the crime or offence for which he was so tried.

A party prosecuted for a crime or offence may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged and convicted of the attempt only.

No person tried to be afterwards prosecuted for the same.

9. If upon the trial of any person upon any information for robbery it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob; and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an information for assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

On a trial for robbery the jury may convict of an assault with intent to rob.

No person so tried to be afterwards prosecuted for the same.

10. If upon the trial of two or more persons prosecuted for jointly receiving any property it shall be proved that one or more of such persons separately received any part of such property, it

Upon an information for jointly receiving, persons

shall be lawful for the jury to convict upon such information such of the said persons as shall be proved to have received any part of such property.

Separate accessories and receivers may be included in the same information in the absence of the principal offender.

11. And whereas it frequently happens that the principal in a crime is not in custody or amenable to justice, although several accessories to such crime, or receivers at different times of stolen property the subject of such crime, may be in custody or amenable to justice; for the prevention of several trials it is enacted that any number of such accessories or receivers may be charged with substantive offences in the same information, notwithstanding the principal criminal shall not be included in the same information, or shall not be in custody or amenable to justice.

Three thefts from the same person within six months may be included in the same information.

12. It shall be lawful to insert several counts in the same information against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where a single taking is charged, the prosecutor is not required to elect unless it appear that there were more than three takings, or more than six months between the first and last taking.

13. If upon the trial of any information for theft it shall appear that the property alleged in such information to have been stolen at one time was taken at different times the prosecutor shall not, by reason thereof, be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

Coin and bank notes may be described simply as money.

14. In every information in which it shall be necessary to make any averment as to any money or any note of any bank, or any treasury note, it shall be sufficient to describe such money or note simply as money, without specifying any particular coin or note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank or treasury note, although the particular species of coin of which such amount was composed, or the particular nature of the note, shall not be proved; and in cases of theft by clerks, servants, or others intrusted with the possession of money, and in cases of obtaining money or bank or treasury notes by false pretences, by proof that the offender stole or obtained any piece of coin or any bank or treasury note, or any portion of the value thereof, although such piece of coin or note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Form of information in cases of perjury and other like offences.

15. In every information for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath, affirmation, declaration,

affidavit, deposition, or other writing was taken, made, signed, or subscribed, without setting forth the information, declaration, or any part of any proceeding, and without setting forth the commission or authority of the court or person before whom such offence was committed.

16. In every information for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly to take, make, sign, or subscribe any oath, affirmation, declaration, affidavit, deposition, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner herein-before mentioned, and then to allege that the defendant unlawfully, wilfully, and corruptly did cause and procure the said person the said offence in manner and form aforesaid to do and commit; and whenever such perjury or other offence aforesaid shall not have been actually committed it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things herein-before rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

Form of information for subornation of perjury and other like offences.

17. It shall not be necessary to state any venue in the body of any information, but the circuit, district, town, or other jurisdiction named in the margin thereof shall be taken to be the venue for all the facts stated in the body of such information: Provided that in cases where local description is or hereafter shall be required, such local description shall be given in the body of the information.

Venue in the margin sufficient, except where local description is necessary.

18. No information for any crime or offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes," or *vice versâ*, nor for the insertion of the words "against the form of the ordinance or regulation," instead of "against the form of the ordinances or regulations," or *vice versâ*, nor for that any person mentioned in the information is designated by a name of office or other descriptive appellation instead of his proper name, nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the presentment of the information, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing or the amount of damage, injury, or spoil in any case

What defects shall not vitiate an information.

where the value or price or the amount of damage, injury, or spoil is not of the essence of the offence.

Formal objections to informations shall be taken before jury are sworn. Court may amend any formal defect.

19. Every objection to any information for any formal defect apparent on the face thereof shall be taken by motion to quash such information before the jury shall be sworn, and not afterwards; and every court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the information to be forthwith amended in such particular by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Provision as to postponing trials.

20. No person prosecuted shall be entitled to postpone the trial of any information presented against him at any sessions of the Supreme Court: Provided always, that if the court, upon the application of the person so prosecuted or otherwise, shall be of opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, such court may adjourn the trial of such person to the next subsequent session, upon such terms as to bail or otherwise as to such court shall seem meet, and may respite the recognizances of the witnesses accordingly; in which case the witnesses shall be bound to attend and give evidence at such subsequent session without entering into any fresh recognizance for that purpose.

Provision as to plea of autrefois convict or autrefois acquit.

21. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the information.

Interpretation of "property."

22. The word "property" as used in this Ordinance shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

23. Has had its effect.

6th October 1852.

85.

No. 13 of 1852.

An Ordinance to naturalize Frederick Salzmann.

6th October 1852.

86.

No. 14 of 1852.

An Ordinance to naturalize Adolphe Odier.

6th October 1852.

87.

No. 15 of 1852.

An Ordinance to naturalize Jean Marie Armand Montclar.

6th October 1852.

88.

No. 16 of 1852.

To amend the Law relating to Notaries.

Preamble.

Whereas it is expedient to make further and other provision for the more efficient and faithful discharge of the duties of the office of notary in this island, and to consolidate and amend the laws now in force relative thereto: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

1. Repealing clause.

No person to act as notary unless duly admitted and enrolled.

2. From and after the time when this Ordinance shall come into operation, no person shall act as a notary in this island, or as such notary authenticate or attest any deed or instrument whatsoever, unless such person shall previously to such time as aforesaid have been duly authorized to act as a notary under and by virtue of the laws in force before such time as aforesaid; or unless such person shall, after such time as aforesaid, be admitted and enrolled and otherwise duly qualified to act as a notary, pursuant to the directions and regulations of this Ordinance, and unless such person shall continue to be so duly qualified, and on the roll at the time of his acting as such notary as aforesaid.

Persons capable of admission as notaries.

3. Except as herein-after mentioned, no person shall, from and after the time when this Ordinance shall come into operation, be capable of being admitted to act as a notary in this island, unless such person shall have been previously admitted to act as an advocate or a proctor in the Supreme Court of this island, and shall then be entitled to act as such therein; or unless such person shall be of the full age of twenty-five years, and shall have been bound by contract in writing to serve as clerk for and during the term of three years to a practising notary in this island, and shall have duly served under such contract for and during the said term of three years, and shall after the expiration of the said term of three years have been examined in the manner herein-after in the sixth section of this Ordinance directed.

Other persons declared capable in certain cases.

4. And whereas the circumstances of this colony, or of certain districts thereof, may sometimes require that for the present persons other than those in the preceding section mentioned should be capable of being admitted to act as notaries in this island; it is enacted that it shall at any time be lawful for the Governor, when he shall see occasion, to declare any person not being an advocate, proctor, or articled clerk as aforesaid capable of being admitted to

act as a notary in this island, anything in the preceding section to the contrary notwithstanding.

Mode of applying for admission.

5. Every person who shall intend to apply for admission as a notary in this island shall, six weeks at least before he shall so apply, give notice of such his intention to the district court of the district in which he resides, and shall cause his name and place of abode, written in legible characters, to be affixed on the outside door or wall of the said court; and shall also cause notice of his intended application to be published once at least in some public newspaper of this island between the time when he shall give such notice and the time of making such application; and every such application shall be in the form of a petition to the Governor, in the handwriting of and signed by the applicant, who shall state therein the place where he resides, and where he intends to practise, the district or districts within which he desires to be authorized to act, the language or languages in which he purposes to draw, authenticate, or attest deeds or other instruments, together with the names and residences of the persons who are willing to become his sureties, or the description and value of the property which he proposes to hypothecate or deposit as security for the due and faithful discharge of his duties as a notary; and where such applicant shall be an advocate, or proctor, or articled clerk as aforesaid, he shall likewise annex to such petition, as the case may be, either a certificate or other documentary proof of his previous admission as an advocate or proctor in the said Supreme Court, and that he is still entitled to practise therein, or documentary proof that he has been bound by contract in writing to serve, and that he has duly served under such contract, for and during the term of three years as clerk to a practising notary in this island; and where such applicant shall not be an advocate or proctor as aforesaid he shall likewise annex to such petition a certificate or other documentary proof that he is of the full age of twenty-five years or upwards.

Applicants (except advocates and proctors) to be examined.

6. It shall be lawful for the Governor, on receipt of any such petition from any person other than an advocate or proctor of the Supreme Court, if he shall think it advisable so to do, to refer the same to the district judge of the district where such person resides to examine and inquire by such ways and means as he shall think proper touching the fitness and capacity of such person to act as a notary, and if such judge shall be satisfied by such examination and inquiry, or by the certificate of such examiners as he may have nominated and appointed for the purpose, that such person is duly qualified and a fit and proper person and competent to act as a notary in this island, he shall endorse on or annex to the said petition a certificate under his hand to that effect, and return the same to the Governor.

Admission to be by warrant of the Governor.

7. It shall and may be lawful for the Governor, by warrant under his hand and the public seal of this island, to admit any person who by the third or fourth sections of this Ordinance is declared capable of being so admitted, to act as a notary; and every such warrant shall specify the place where the person thereby admitted resides, the district or districts within which he is authorized to act, and the language or languages in which he is

authorized to draw, authenticate, or attest deeds or other instruments.

Notary to make declaration and give security.

8. It shall not be lawful for any person so admitted to act as a notary to commence practising as such until he shall have duly made and signed before the district judge of the district where such person resides a declaration in the words or to the effect following; that is to say, "I, *A.B.*, do sincerely promise and declare, "that I will truly and faithfully, and to the best of my ability, "execute the office of a notary in pursuance of and in conformity "with the authority given to me by warrant of the Governor "bearing date the day of ;" and until he shall have executed before the said judge a bond to Her Majesty, Her heirs and successors, in such amount as the said judge shall consider reasonable, not exceeding the sum of one hundred pounds, conditioned for the due and faithful discharge of his duties as a notary, and which amount shall be secured to Her Majesty, Her heirs and successors, either by the hypothecation of immoveable property, or by deposit of moveable property, or by the personal undertaking of two or more sufficient sureties in that behalf to the satisfaction of such district judge, and until he shall have filed in the district court of such district an attested copy of such warrant; and if any person who before the commencement of this Ordinance was not duly authorized to act as a notary in this island shall practise or act as or exercise the office or functions of a notary in this island without having obtained such warrant as aforesaid, or without having made and signed such declaration and given such bond and security as aforesaid, or without having filed an attested copy of such warrant, every such person shall in any such case be guilty of an offence, and liable on conviction thereof to any fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, at the discretion of the court, for any period not exceeding three years.

Penalty for practising without warrant, &c.

Sureties may obtain discharge from future liability.

9. Any person who has or shall hereafter become bound as a surety for the due and faithful discharge by any notary of his duties as such may, upon application to the district court of the district in which such notary resides, be discharged from any further liability as such surety, upon proof to the satisfaction of such court that he has given six weeks' notice of his intended application to such notary; and thereupon the said court shall make an order discharging such surety from any liability in respect of any act of such notary done or omitted after the date of such order; and such order shall be endorsed on the bond by which such surety had become bound under the hand of the district judge.

On loss of security, or death, insolvency, discharge, or departure from the island of sureties, notary to furnish other securities.

10. If at any time the security given by any notary shall perish or be lost, or if the sureties who became bound for him shall die or depart from this island, or become insolvent, or be discharged from their obligation as such sureties, the district judge shall call upon such notary forthwith to furnish other sufficient security; and if any notary after being so required to furnish security shall, before having complied with such demand, practise or act as a notary in this island, he shall be liable on conviction thereof to the punishment provided in the eighth section of this Ordinance.

Notaries.

Names of notaries to be enrolled in the district court.

11. It shall be lawful for the several district judges, and they are respectively hereby authorized and required each in their respective districts. on the production to them by any person of any such warrant as aforesaid authorizing him to act as a notary in any such district, and after the person therein named shall have made and signed the declaration, and given the security hereinbefore mentioned, without fee or reward, to enrol the name of such person and the date of his admission as a notary licensed to act as such in virtue of the said warrant, in rolls or books to be provided and kept for that purpose in the said court ; and the said declaration and bond, together with an attested copy of such warrant, shall be filed of record in the said court; and a list of all notaries heretofore authorized to act as such within any such district, or who may at any time hereafter be enrolled in such court as aforesaid, and who may be authorized to act within any such district, shall be kept at all times appended in some conspicuous place on the wall of the court house for general information; and the secretary of such court shall from time to time as occasion may require correct the said list by striking therefrom the names of any notaries who have died, or been struck off the roll of notaries, or have removed from the said district, or ceased to practise as notaries therein ; and if any such notary shall be authorized by any such warrant to practise in several districts the judge of the court to whom such warrant shall be produced, and before whom such declaration shall be made and such security given as aforesaid, shall transmit to the respective district judges of the other districts in which such notary shall be authorized to practise a certificate under his hand that such warrant has been produced, and such declaration made, and such security given, and the said district judges shall thereupon cause the said certificate to be filed of record in the courts over which they severally preside, and the name of such notary and the date of his admission to be entered on the roll of notaries kept in such court.

Notary when disqualified for his office.

12. If any person who now is or hereafter may be authorized to act as a notary in this island shall after the commencement of this Ordinance be lawfully convicted of any infamous crime, or of any crime or offence punishable under the provisions of the twenty-second section of this Ordinance, or if any such person, being an advocate or proctor as aforesaid, shall be duly removed from his office as such advocate or proctor, every such person shall become *ipso facto* disqualified for the said office of notary, and the warrant granted to him shall thereupon be cancelled.

In cases of gross misconduct or incapacity, Governor may remove a notary from his office.

13. And whereas cases may arise in which, although a notary shall not be disqualified under the provisions of the preceding section, it may nevertheless be evidently necessary for the public benefit and the ends of justice that such notary should not be allowed to continue to practise as such in this island : It is enacted that it shall be the duty of the district court of the district in which any person resides who now is or hereafter may be authorized to act as a notary, upon proof to the satisfaction of such court of gross misconduct in the discharge of the duties of his office by such notary, or that such notary has proved himself to be grossly incapable of discharging

them with advantage to the public, or that he has so conducted himself as that he ought not to be any longer intrusted with the performance of the said duties, to report the same in writing, with the evidence taken by such court, to the Governor; and thereupon it shall be lawful for the Governor, with the advice of the Executive Council, if he shall see occasion, to cancel the warrant granted to such notary.

Certificate of cancelling of warrant to be transmitted to the district court.

14. Whenever any such warrant has been cancelled notice thereof shall be given in the gazette of this Colony, and a certificate that such warrant has been cancelled shall be transmitted by the Colonial Secretary to the district court of every district within which such notary shall have been authorized to act; and it shall be the duty of the judge of the court in which the name of such notary is enrolled to cause his name to be immediately struck off the roll of notaries; and a copy of such certificate, with a translation in the native languages subjoined thereto, shall be kept appended in some conspicuous place on the wall of every district court to which such certificate shall have been transmitted for such period as the court may direct.

Notary may be suspended from his office by the Governor in certain cases.

15. It shall be lawful for the Governor, on the application of the Queen's Advocate, in any case in which any person who now is or hereafter may be authorized to act as a notary in this island shall have been duly committed to take his trial for any crime or offence in the twelfth section of this Ordinance mentioned, to suspend such person from his office of notary pending his trial for such crime or offence; and in any such case of the suspension of any notary a certificate thereof shall be forthwith transmitted by the Colonial Secretary to the district court of every district within which such notary shall have been authorized to act; and a copy of such certificate, with a translation in the native languages subjoined thereto, shall, so long as such suspension shall be in force, be kept appended in some conspicuous place on the wall of every such district court: Provided that if such notary shall not be brought to trial within six months after such suspension, the same shall cease to be any longer in force, and shall be deemed to be removed.

Penalty on notary practising after notice of suspension, &c.

16. If any person shall act as or exercise the office or functions of a notary after having received notice of any such suspension as aforesaid, and before the same shall have been removed, or after he shall have been convicted of any crime or offence disqualifying him for the said office, or after he shall have been removed from the office of advocate or proctor as herein-before mentioned, or after he shall have received notice that the warrant granted to him has been cancelled as aforesaid, he shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, at the discretion of the court, for any period not exceeding three years.

Certificates to be granted yearly to notaries.

17. From and after the time when this Ordinance shall come into operation it shall be the duty of the several secretaries of the district courts in their respective districts, and they are hereby required, to grant or issue to every person entitled to practise as a notary in any such district who shall apply for the same a certi-

ficate that such person is a notary and duly authorized to practise as such in such district ; and all such certificates shall be applied for and granted on or before the first day of March in every year, and shall be in force for one year and no longer; and such certificate shall be in the form in the schedule to this Ordinance annexed marked A.; and the several stamp duties specified in the table B. in the said schedule shall be payable to Her Majesty on such certificates: Provided always, that if any notary shall be authorized to practise in several districts, he shall only be required to take out one such annual certificate, which may be taken out by him in any district within which he is authorized to practise as such notary: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, to authorize the issue of any such certificate on unstamped paper in any case in which the circumstances of any district or place appear to him to render such a proceeding necessary or advisable.

Notaries applying for certificates to make declaration.

18. For the purpose of obtaining such certificate as aforesaid a declaration in writing signed by such notary, containing his name and place of residence and the district or districts in which he is authorized to practise, shall be delivered to the said secretary, who shall as soon as conveniently may be after the delivery of such declaration (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the roll of notaries or not authorized to practise as such in such district or districts) deliver to the said notary such certificate as aforesaid; and if any person shall make any false statement in any such declaration he shall be guilty of an offence, and liable, on conviction thereof, to a fine not exceeding fifty pounds.

Penalty on notaries practising without certificates.

19. If any person shall after the first day of March next, after this Ordinance shall come into operation, act as a notary in this island without having obtained such certificate as aforesaid, which shall be then in force, he shall for or in respect of every deed or instrument executed or acknowledged before him as such notary, whilst he shall have been without such certificate, incur and be liable to a fine not exceeding five pounds.

On refusal to grant any certificate, application to be made to the district court.

20. In case the said secretary shall decline to issue any such certificate to any notary as aforesaid the party so applying for the same shall and may apply to the district court, which is hereby authorized to make such order in the matter as shall be just: Provided always, that any party aggrieved by any such order may appeal against the same to the Supreme Court.

Rules to be observed by notaries.

21. It is and shall be the duty of every notary in this island, whether admitted to act as such previously to the time when this Ordinance shall come into operation or thereafter, strictly to observe and act in conformity with the following rules and regulations ; that is to say,

1. He shall not divulge the secrets confided to him, or of which he becomes possessed in the execution of his office, unless with the express permission of his employer or when required to do so by law.
2. He shall not authenticate or attest any deed or instrument whatever unless the person executing the same be known

to him or to at least two of the attesting witnesses to the said deed or instrument.

3. He shall not authenticate or attest any deed or instrument whatever in any case in which both the person executing the same and the attesting witnesses thereto are unknown to him.
4. He shall not authenticate or attest any deed or instrument whatever to which two witnesses at least have not subscribed their signatures in letters or characters.
5. He shall not authenticate or attest any deed or instrument whatever unless the person executing the same and the witnesses shall have signed the same in his presence and in the presence of one another.
6. He shall correctly insert in every deed or instrument whatever executed before him the day, month, and year on which and the place where the same is executed, and the names and residences of the attesting witnesses, on the day on which it is so executed.
7. Where any deed or instrument whatever shall be acknowledged before him he shall correctly insert in the attestation thereto the day, month, and year on which and the place where the same is acknowledged, and the names and residences of the attesting witnesses, on the day on which it is so acknowledged.
8. He shall not attest any deed or instrument whatever in any case in which the person executing or acknowledging the same shall be, or profess to be, unable to read the same, or in which such person shall require him to read over the same, unless and until he shall have read over, and if need be explained the same, or caused the same to be explained, in the presence and hearing of such person and of the attesting witnesses thereto.
9. He shall not require, permit, or suffer any party to any deed or instrument executed or to be executed before him, or any witness thereto, to sign his name or make his mark to any such deed or instrument, or to any duplicate or other part thereof, or to any draft or minute thereof preserved in his protocol, or upon any paper or other material intended to be afterward used for any such purpose, until the whole of such deed or instrument shall have been written or engrossed thereon.
10. He shall duly attest every deed or instrument whatever which shall be executed or acknowledged before him, and in such attestation shall state that the said deed or instrument was signed by the party and the witnesses thereto in his presence and in the presence of one another; and shall also in such attestation state whether the person executing or acknowledging the said deed or instrument, or the attesting witnesses thereto (and in the latter case he shall specify which of the said witnesses), were known to him, and whether the same was read over by the person executing the same, or by him the said notary to the said person,

and he shall sign and seal every such attestation; and such attestation shall be in the following form of words, or in any other form of words to the same effect, as the case shall happen; that is to say,

The foregoing instrument having been read over by me the said notary to the said [*here insert the name of the person executing such instrument*] in the presence of the subscribing witnesses above named [*or, if the witnesses have not been previously named and described*, in the presence of residing at and residing at , the subscribing witnesses hereto], both of whom are known to me (*if the case be so*), the same was signed [*or* acknowledged] by the said and also by the said witnesses, in my presence and in the presence of one another, on the day and year and at the place first above written (*or, if the date and place of execution or of acknowledgment have not been previously set forth in the instrument*, at on the day of in the year (*as the case may be*)

Which I attest

(Signed)

(Seal.) Notary.

11. He shall, on or before the fifteenth day of every month, deliver or transmit to the district court of the district in which he resides the duplicate of every deed or other instrument (except wills and codicils) executed or acknowledged before or attested by him during the preceding month, together with a list, in duplicate, signed by him, of all such deeds or instruments: Provided, that where any deed shall be executed or acknowledged by two or more parties residing in different districts and before different notaries, the duplicate of such deed shall be delivered or transmitted by the notary by whom the same was drawn up to the district court of the district in which he resides; and it shall not be necessary for the other notary or notaries employed in the execution of such deed to deliver or transmit any duplicate thereof to the district court; and if the land referred to in any deed or instrument which by the said Ordinance No. 7 of 1840 is required to be executed before a licensed notary be situated in this island, but without the district in which the notary before whom the same is signed and by whom the same is attested shall reside, such notary shall, on or before the fifteenth day of the month next following that in which the same was executed (besides filing the duplicate in manner aforesaid) deliver or transmit to the district court of the district in which such land shall be situated an attested copy thereof, together with a list, in duplicate, signed by him, of all such deeds or instruments.

12. He shall carefully preserve in his protocol a draft, minute, or copy of every deed or instrument executed or acknow-

ledged before him, to which shall be attached his signature and those of the party and witnesses to the original deed or instrument; and he shall keep a register thereof with convenient index for the purpose of easy reference.

13. He shall give one month's notice of his intention to change his residence permanently to another district, or to discontinue his practice, by affixing a written notice to that effect, signed by him, on the outside door or wall of the district court of every district in which he is authorized to act.

14. He shall give notice to the district judge, with as little delay as possible, of the death, departure from the island, or insolvency of any person bound as a surety for the due and faithful discharge by such notary of his office.

Penalty for non-observance of rules.

And if any notary shall act in violation of, or shall disregard or neglect to observe any of the foregoing rules and regulations, he shall be guilty of an offence, and shall be liable, on conviction thereof, to a fine not exceeding twenty pounds in addition to any civil liability he may incur thereby: Provided, that no instrument shall be deemed to be invalid in consequence of the non-observance by the notary of the foregoing rules and regulations, or of any of them, in any matter of form.

Penalty on notary acting fraudulently.

22. If any notary shall attest any fraudulent or illegal deed or instrument whatsoever, knowing the same to be fraudulent or illegal, or shall knowingly and wilfully insert in any deed or instrument whatsoever any word, letter, figure, matter, or thing which ought not to have been inserted therein, or shall knowingly and wilfully omit to insert therein any word, letter, figure, matter, or thing which ought to have been inserted therein, with intent to prejudice or defraud any person; or shall attest any deed or instrument whatsoever without the person who executed or acknowledged it and the attesting witnesses thereto having appeared personally before him at the time when it was so executed or acknowledged; or shall wilfully make any false statement in the attestation to any deed or instrument executed or acknowledged before him; or shall wilfully and fraudulently misstate or misrepresent to any party thereto the contents or effect of any deed or instrument whatsoever, executed or acknowledged before him; or shall by any other wilful act, either of commission or omission, commit or attempt to commit any fraud in the execution of his office; or shall wilfully, maliciously, or fraudulently deface, mutilate, injure, destroy, or make away with any deed or instrument whatever, or any draft, minute, or copy of any deed or instrument which had been left in his charge or custody, or which he was bound to preserve, every such notary shall in any of such cases be guilty of an offence and shall be liable, on conviction thereof, to imprisonment with or without hard labour, at the discretion of the court, for any period not exceeding five years.

Fees to be taken by notaries.

23. The several fees specified in the table to this Ordinance annexed, marked C., shall and may be lawfully demanded and

taken by notaries for the performance of the duties of their office as therein expressed: Provided, that it shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by proclamation to be by him issued and published in the Government Gazette, to alter, vary, or rescind the said table, either wholly or partially, and either as regards the fees to be taken by notaries throughout the island or in any particular portion thereof, and to substitute other fees in lieu thereof; and a correct table of the fees chargeable by notaries in the English and native languages shall be at all times appended in some conspicuous place on the wall of every district court and court of requests throughout the island; and if any notary shall without just and reasonable cause refuse or neglect at any proper time, and on being tendered his proper fees, to discharge any of the duties or functions of his office, or shall demand or insist upon receiving a higher fee than he is authorized to demand, he shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding twenty pounds.

On removal or death of notary documents to be delivered to district court.

24. If any person, being removed from or ceasing to act in the office of notary, or in case of the death of any such notary, if any of his heirs, executors, or administrators, or any other person into whose possession the same shall have come, shall wilfully lose, or injure, or destroy, or shall without just and lawful cause wilfully neglect or refuse to deliver over, as soon as conveniently may be, to the district court of the district in which such notary was resident, any drafts, minutes, or copies of any deeds or other instruments executed or acknowledged before such notary, or any register, index, deed, instrument, or document whatever, possessed by such notary in right of his said office, every such person shall be guilty of an offence, and shall on conviction thereof be committed to prison, there to remain, without bail and at hard labour, until he shall have delivered up the same, if it shall be in his power so to do, and shall in addition be liable to a fine not exceeding twenty pounds.

Notary to deliver to the secretary lists of duplicate deeds filed.

25. Whenever the duplicate of any instrument shall be transmitted to the district court by any notary under the twenty-first section of this Ordinance, clause 11, or whenever any document shall be delivered up to any district court under the preceding section, such notary or other person transmitting or delivering the same shall tender to the secretary of such court two lists thereof, who shall, after ascertaining the correctness thereof, sign the said lists, and return one of them to the said notary or other party, and file the remaining list, and securely keep and preserve the same, and the documents specified therein, with the other records of such court;

Secretary to keep register of deeds.

and the secretary of every district court shall keep a register of all deeds relating to land situated in this colony, the duplicates whereof shall have been transmitted to such court as aforesaid; and he shall enter the same in such register within one month after the duplicates shall have been received, according to the form marked D. in the schedule annexed to this Ordinance, or in such other form as the Governor, with the advice of the Executive Council, shall at any time hereafter direct and appoint.

Notaries.

26. The duplicates of all deeds transmitted to the district court under the authority of this Ordinance shall be carefully preserved in the said court for reference and inspection of all persons interested therein, who shall be entitled, on furnishing the proper stamp, to demand a copy or extract of any such deed, certified as correct by the secretary of such court, for which copy or extract a fee of four shillings shall be paid to the said secretary, who shall pay the same into the public treasury.

Duplicates to be preserved in district courts, and certified copies to be furnished by secretary on payment of fee of 4*s*.

27. Has had its effect.

SCHEDULE

A.

I, *A.B.*, secretary of the district court of do hereby certify that *C.D.* of hath this day delivered and left with me the declaration in writing signed by him required by the Ordinance No. of the year 1852; and I further certify that the said *C.D.* is duly enrolled as a notary and authorized to practise as such in the district (or districts) of

In witness whereof I have this day of at , set my hand to this stamped certificate.

(Signed) *A.B.*, Secretary.

B.

Table of Stamp Duties on Certificates.

	£	s.	d.
Certificate to be taken out yearly by every notary practising in the town, fort, or gravets of Colombo, Kandy, Galle, Jaffna, or Trincomalie - -	0	10	0
If he shall practise elsewhere in this island - -	0	2	0

C.

Table of Notaries' Fees.

For drawing every deed of transfer of property, moveable or immoveable, and every mortgage or other bond, in common form, wherein the value or consideration is expressed, including engrossing, attesting, and registering same; where the value is under 10*l*. - - - -	0	2	0
" is 10*l*. and under 20*l*. - - -	0	3	0
" is 20*l*. do. 50*l*. - - -	0	4	0
" is 50*l*. do. 100*l*. - - -	0	6	0
" is 100*l*. do. 200*l*. - - -	0	8	0
" is 200*l*. do. 300*l*. - - -	0	12	0
" is 300*l*. do. 400*l*. - - -	0	16	0
" is 400*l*. do. 500*l*. - - -	0	18	0
" is 500*l*. do. 1,000*l*. - - -	1	0	0
" is 1,000*l*. and upwards - - -	3	0	0

Notaries.

	£	s.	d.
For drawing, engrossing, attesting, and registering every deed of transfer, mortgage, or other bond which is not in the ordinary form, but contains various covenants, recitals, or conditions, whether the consideration is expressed therein or not, and all agreements, deeds of donation, leases, powers of attorney, or other instruments, including last wills and other testamentary dispositions:			
For every such document, per folio of 120 words, or less - - - - -	0	5	0
For attesting, in duplicate, any deed not drawn by the notary himself - - - - - -	0	3	0
For examining, at the request of any party, the title of any property to be transferred or mortgaged, if there is only one deed - - - - -	0	2	0
If there are more deeds than one, then for each additional deed - - - - - -	0	1	0
For noting each bill of exchange or promissory note, including the copying of it in the book of registry or protest book and presentment - - -	0	2	6
Protesting ditto - - - - -	0	7	6
For every duplicate protest - - -	0	5	0
For every act of honour on acceptance or payment supra protest - - - - - -	0	3	0
For every duplicate of such protest - -	0	1	6
For copy of a bill paid in part and of receipt -	0	3	0
For noting protest of ships or vessels, including the copying of it in the book of registry or protest book	0	10	0
For drawing, engrossing, attesting, and recording protest of ships or vessels, for every folio of 120 words or less - - - - - -	0	5	0
For every notarial copy or extract of deeds, where parties require same (excepting the attestation), for every folio of 120 words - - - - -	0	0	9
Fee for attesting same - - -	0	3	0
For every duplicate deed engrossed, attested, and filed in court, half of the above charges.			
For preparing certificate of the Colonial Secretary or other officer to any document intended to be sent abroad	0	2	6
For attendance, either at the notary's office or elsewhere, in cases of unusual difficulty or importance, for the purpose of reading and settling instruments before execution - - - - - -	0	3	4

All exclusive of the attendance in case any deed or instrument may not be executed at the house or office of the notary, and also exclusive of the stamp duty.

For attendance at any place other than the notary's house or office, a charge of 1*s.* 6*d.* per mile, or for any distance under a mile, shall be allowed as travelling expenses.

If the attendance is at night, double the above charges for attendance.

When an interpreter is required, a charge not exceeding two shillings for every necessary attendance may be made.

D.

Register of Deeds affecting Lands.

No	Date.	Korle, Pattoo, or other Division.	Village.	Names of Parties.	Nature of Documents.

20th October 1852.

89.

No. 17 OF 1852.

To make further provision touching the Execution of certain Deeds and Instruments.

WHEREAS it is expedient to facilitate the execution of certain deeds which at present are required to be executed before and attested by a notary public, and for that purpose to allow parties to such deeds to execute the same, if they think fit, before an officer of government instead of before a notary, and to render all deeds executed before any such officer of equal validity and effect with notarial deeds : Preamble.

1. Every writing, deed, or instrument which by the second section of the Ordinance No. 7 of 1840, entitled "To provide more effectually for the prevention of frauds and perjuries," is required to be executed in the manner therein mentioned in order to its validity, shall, if made after this Ordinance shall come into operation, be valid and effectual, so far as relates to the execution thereof, if the same be signed by the party making the same, or by some person lawfully authorized by him, and by two or more witnesses present at the same time, in the presence of some district judge or commissioner of a court of requests for the district in which the party making such writing, deed, or instrument, or the person signing the same as such attorney, resides, or in the presence of some justice of the peace for such district specially authorized by the Governor to act in that behalf, and of whose appointment notice shall be given in the Government Gazette ; and if the execution of such writing, deed, or instru- Deeds relating to land may be executed before a district judge or commissioner, &c.

ment shall be certified at the foot or end thereof under the hand and seal of such judge or commissioner, or of such justice authorized as aforesaid, anything contained in the said Ordinance No. 7 of 1840 to the contrary notwithstanding.

They shall be executed in duplicate and registered.

2. Provided, that every such writing, deed, or instrument shall be executed in duplicate, which duplicate shall be forthwith delivered or transmitted by such judge, commissioner, or justice to the secretary of the proper district court, to be by him registered and preserved in the district court in like manner as notarial deeds of a similar description; and all persons interested in any such deed shall be entitled, on furnishing the proper stamp, to demand a copy or extract of such deed, certified as correct by the said secretary, for which copy or extract a fee of four shillings shall be paid to the said secretary, who shall pay the same into the public treasury.

Copies or extracts how obtained.

Manner of execution of such deeds.

3. No such judge, commissioner, or justice as aforesaid shall be authorized to certify the execution of any such writing, deed, or instrument unless the same, and the duplicate thereof, shall be duly stamped as required by law, nor until the same shall have been read over and explained to the party making the same, and to the witnesses thereto, by or in the presence of such judge, commissioner, or justice as aforesaid, nor unless the same, and the duplicate thereof, shall be legibly written or engrossed, without erasures therein, nor unless the party making such writing, deed, or instrument shall be known to such judge, commissioner, or justice as aforesaid, or to at least two of the attesting witnesses thereto, who shall make a declaration to that effect before him.

Form of certificate.

4. Every such judge, commissioner, or justice as aforesaid, shall insert in his certificate of the execution of every such writing, deed, or instrument the day, month, and year on which and the place where the same is executed, together with the names and residences of the attesting witnesses; and such certificate shall be in the following form of words, or in any other form of words to the same effect; that is to say,

'I *A.B.*, district judge of *Ratnapoora* (*or as the case may be*), 'hereby certify that the above written deed was signed by the 'within named (*insert the name of the party making the deed*), 'the maker thereof, and by of , 'and of , the attesting witnesses 'thereto, in my presence and in the presence of one another, at '*Ratnapoora*, on the *sixth* day of *September* in the year of our 'Lord *one thousand eight hundred and fifty-two.*

'(Seal) *A.B.*,
'District Judge.'

No fees to be taken.

5. No fee or gratuity shall be received or taken by any such judge or commissioner, or by any such justice authorized by the Governor as aforesaid, of or from any person whomsoever for certifying the execution of any such writing, deed, or instrument, or for any act done or to be done by any such judge, commissioner, or justice under this Ordinance; and any such officer who shall receive or take any fee or gratuity, contrary to the true intent and

Penalty.

meaning of this Ordinance, shall be liable, on conviction thereof, to a fine not exceeding twenty pounds.

Deeds not to be written by such judges, &c. or by the officers of their courts.

6. No such judge or commissioner, and no such justice authorized by the Governor as aforesaid, and no secretary, clerk, interpreter, or other officer of any court presided over by such judge or commissioner, shall draw up, write, or engross any writing, deed, or instrument to be executed under the provisions of this Ordinance, or any duplicate thereof; and any such officer who shall draw up, write, or engross any such writing, deed, or instrument, or the duplicate thereof, contrary to the true intent and meaning of this Ordinance, shall be liable, on conviction, to a fine not exceeding twenty pounds.

Penalty.

7. Has had its effect.

20th October 1852.

90.

Ordinance No. 26 of 1852.

To make other Provisions respecting the Sale of Salt.

Preamble.

Whereas it is expedient that the sale of salt, whether by wholesale or retail, should hereafter be regulated by weight, and not by measure: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

1. Repealing clause.

Salt to be sold by weight.

2. Every storekeeper or other person selling salt on behalf of Government, and every licensed retailer of salt, shall be bound to sell and deliver salt by weight, and not by measure, at such price as may be fixed by Government from time to time.

Penalty for selling by short weight, &c.

3. Any storekeeper or other person selling salt on behalf of Government, and every licensed retailer of salt, who shall be convicted of selling salt by measure or of issuing salt by short or false weight, shall be liable on conviction to a fine not exceeding ten pounds, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding twelve months, and the half of all fines actually recovered shall be paid to the informer.

4. Has had its effect.

18th December 1852.

91.

Ordinance No. 1 of 1853.

To extend to the Town of Kandy the Provisions of the Ordinance No. 7 of 1848.

Preamble.

Whereas it is expedient that the provisions of the Ordinance No. 7 of the year 1848, entitled "For registering palanquin and "other carriages let to hire," should be extended to the town of Kandy: It is enacted by the Governor of Ceylon, with the advice

Ordinance No. 7 of 1848 to extend to persons letting carriages to hire in Kandy.

and consent of the Legislative Council thereof, that from and after the first day of January one thousand eight hundred and fifty-four the provisions of the said Ordinance No. 7 of 1848 shall be deemed and taken to extend to the town and gravets of Kandy, and shall apply to all persons letting to hire by the job any palanquin carriage, or other carriage with two or more wheels, at any place within the said town and gravets, or keeping any such carriage for the purpose of letting the same to hire by the job within such town and gravets, and also to all persons hiring, defacing, or injuring any such carriage, and to the drivers or horsekeepers of such carriages, or other persons having the charge or care thereof; and that all the provisions of the said Ordinance No. 7 of 1848 shall be read and construed as if the same had been inserted herein, as applicable to the said town and gravets, and to the said persons respectively, and shall be applied, observed, and put in execution accordingly.

31st August 1853.

92.

ORDINANCE No. 2 OF 1853.

For the safe Custody of Convicts employed upon Public Works.

Preamble.

Convicts employed on the public roads, &c. may be put in chains.

WHEREAS it is expedient to make provision for the safe custody of convicts employed upon public works in this colony: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance all convicts employed or about to be employed upon the public roads of this colony, or on any public work outside the prison walls, shall be subject and liable to be put in chains or irons, of such description and to be worn during such time and in such manner as shall be directed by any general rules and regulations to be made by the Governor, with the advice of the Executive Council, in that behalf, anything contained in the Ordinance No. 18 of 1844, entitled "An Ordinance for the better regulation of prisons," to the contrary notwithstanding.

31st August 1853.

93.

ORDINANCE No. 3 OF 1853.

To dispense with the issuing of Warrants under the Public Seal to Persons appointed to act temporarily in certain Public Offices.

Preamble.

WHEREAS by certain laws in force within this colony it is enacted that persons holding certain public offices shall be appointed thereto by letters patent, or commission, or warrant issued by the Governor under the public seal of the island, or by warrant under the hand and seal of the Governor, and it is

inconvenient to require the issuing of such letters patent, commissions, or warrants on occasion of the appointment of persons to act temporarily in any such office: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance, whenever it shall be deemed advisable to appoint any person to act as district judge, commissioner of a court of requests, police magistrate, coroner, deputy coroner, superintendent of police, or justice of the peace, during the sickness, or absence, or suspension from office, or upon the death of the person permanently appointed to any such office, the notification in the Gazette of this colony by the Governor's command, under the hand of the Colonial Secretary or Assistant Colonial Secretary, of the appointment of any person to act in any such office, shall be and be deemed to be a sufficient warrant and authority to such person to enter upon and to perform all the duties of such office, without any other appointment, whether by letters patent, or by commission, or by warrant issued by the Governor under the public seal, or by warrant under the hand and seal of the Governor, as the case may be, anything contained in the charter bearing date at Westminster the 18th February 1833, or in the Ordinance No. 6 of 1843, entitled "An Ordinance for the creation of "justices of the peace," or in the Ordinance No. 8 of 1843, entitled "An Ordinance to provide for the better holding of "inquests touching sudden and violent deaths," or in the Ordinance No. 10 of 1843, entitled "An Ordinance for the establish-"ment of courts, of inferior civil jurisdiction to be called courts "of requests," or in the Ordinance No. 17 of 1844, entitled "An "Ordinance for establishing an efficient police in certain towns, "&c.," or in any other Ordinance to the contrary notwithstanding.

Acting appointments as district judge, &c., to be made by notification in the Gazette.

31st August 1853.

94.

Ordinance No. 5 of 1853.

An Ordinance to naturalize Christophe Gardette.

14th September 1853.

95.

Ordinance No. 7 of 1853.

For regulating the due Collection, Administration, and Distribution of Insolvent Estates.

Preamble.

Whereas it is expedient to make provision for the due collection, administration, and distribution of the estates of persons within this colony who may become insolvent, for the prevention

of fraud affecting the same, and for the relief of such persons as by misfortune, and without having been guilty of fraud or dishonesty, may become insolvent:

1. Repealing clause.

2. Has had its effect.

Cessio bonorum abolished.

3. It shall not be lawful for any person to obtain from any court within this colony, or for any such court to grant to any person, the benefit or relief of cession of goods and property commonly called the *cessio bonorum*, as heretofore known to and allowed by the Roman-Dutch law in force within this colony: Provided, that nothing herein contained shall be deemed or taken to affect in any way the estate or condition of any person to whom before the commencement of this Ordinance the said benefit or relief shall have been duly granted, which estate shall be administered, and which condition shall be judged of, as if this Ordinance had not been enacted.

Proviso.

Judges may make rules.

4. The judges of the Supreme Court may from time to time make such rules and orders as they may think fit for the better carrying this Ordinance into effect, and generally for regulating the practice of the district court and the forms of proceedings under this Ordinance in all insolvency matters not provided for in this Ordinance: Provided, that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance, and that no such rules or orders shall be of any force or effect until they shall have been transmitted to the Governor and confirmed in the manner provided by the Ordinance No. 8 of 1846, entitled "For rendering the operation of rules of court contingent "on their enactment by the Legislature."

Proviso.

District courts to be auxiliary to each other for proof of debts and taking examinations.

5. The several district courts throughout this colony shall be courts for the administration of insolvent estates under this Ordinance, and shall be auxiliary to each other for proof of debts and for the examination of persons or witnesses in all matters under this Ordinance, or for any or either of such purposes: Provided, that all such examinations shall be taken down in writing, and shall be transmitted to the court in which the petition for sequestration is being prosecuted, and shall be annexed to and form part of the proceedings in the matter to which the same shall relate, and that no such examination shall be taken without the request in writing of the judge of the district court before whom the matter is being prosecuted.

Proviso.

Appeals to Supreme Court.

6. All decisions and orders of the district courts made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court; and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist or shall be hereafter made by any rule or order of the Supreme Court.

And with respect to acts of insolvency in general:

Acts of insolvency.

7. If any person residing in this colony, or having any property, real or personal, therein, shall depart therefrom, or being out of this colony shall remain abroad, or shall depart from his dwelling house, or otherwise absent himself, or begin to keep his

house, or suffer himself to be arrested or taken in execution for any debt not due, or yield himself to prison, or procure himself to be arrested or taken in execution, or his goods, money, lands, or other property to be attached, sequestered, or taken in execution, or make or caused to be made, either in this colony or elsewhere, any fraudulent grant, conveyance, or mortgage of any of his lands or goods, or make or cause to be made any fraudulent gift, delivery, or transfer of any of his goods or other property, every such person doing, suffering, procuring, executing, permitting, making, or causing to be made any of the acts, deeds, or matters aforesaid, with intent to defeat or delay his creditors, shall be deemed to have thereby committed an act of insolvency.

Conveyance of all a person's property to trustees not an act of insolvency, unless petition for sequestration filed within three months.

8. If any person shall execute any conveyance or assignment by deed of all his property to a trustee or trustees for the benefit of all the creditors of such person, the execution of such deed shall not be deemed an act of insolvency, unless a petition for sequestration of the estate of such person be filed within three months from the execution thereof: Provided such deed shall be executed by every such trustee within fifteen days after the execution thereof by such first-mentioned person, and notice thereof be given within one month after the execution thereof by such first-mentioned person in the Government Gazette and in some newspaper published in Colombo; and such notice shall contain the date and execution of such deed, and the name and place of abode of every such trustee.

Lying in prison 21 days, and escaping out of prison, acts of insolvency.

9. If any person having been arrested or committed to prison for debt or on any attachment for nonpayment of money shall, upon such or any other arrest or commitment for debt or nonpayment of money, or upon any detention for debt, lie in prison for twenty-one days, or having been arrested or committed to prison for any other cause shall lie in prison for twenty-one days after any writ of execution issued against him and not discharged, every such person shall thereby be deemed to have committed an act of insolvency; or if any such person having been arrested, committed, or detained for debt shall escape out of prison or custody, every such person shall be deemed to have thereby committed an act of insolvency from the time of such arrest, commitment, or detention.

Filing declaration of insolvency an act of insolvency.

10. If any person residing in this colony shall file in the district court of the district in which he shall have resided or carried on business for six months next immediately preceding a declaration in writing in the form A. in the schedule to this Ordinance annexed, signed by such person and attested by a proctor of such court, or some other witness, that he is unable to meet his engagements, every such person shall be deemed thereby to have committed an act of insolvency at the time of filing such declaration, provided a petition for sequestration of his estate shall be filed by or against such person within two months from the filing of such declaration.

Compounding with petitioning creditor an act of insolvency.

11. If any person, after the filing of any petition for sequestration of his estate, shall pay money to the petitioning creditor, or give or deliver to such petitioning creditor any satisfaction or security for his debt or any part thereof, whereby such petitioning

creditor may receive more in the pound in respect of his debt than the other creditors, such payment, gift, delivery, satisfaction, or security shall be an act of insolvency; and if adjudication that such estate be sequestered shall have been made upon such petition, the court may either declare such adjudication to be valid, and direct the same to be proceeded in, or may order it to be annulled, and a petition or new petition for sequestration may be filed, and such petition or new petition may be supported either by proof of such last-mentioned or any other act of insolvency.

Defendant not paying, securing, or compounding for a judgment debt within 30 days after notice an act of insolvency.

12. If any plaintiff shall recover judgment in any action for the recovery of any debt or money demand in any court in this colony against any person residing within the same, and shall be in a situation to sue out execution upon such judgment, and there be nothing due from such plaintiff by way of set off against such judgment, and the defendant shall not within thirty days after notice in writing personally served upon such defendant requiring immediate payment of such judgment debt pay, secure, or compound for the same to the satisfaction of such plaintiff, every such defendant shall be deemed to have committed an act of insolvency on the thirty-first day after service of such notice: Provided that if such execution shall in the meantime be suspended or restrained by any rule, order, or proceeding of any court having jurisdiction in that behalf, no further proceeding shall be had on such notice, but it shall be lawful nevertheless for such plaintiff, when he shall again be in a situation to sue out execution on such judgment, to proceed again by notice in manner aforesaid: Provided also, that if the defendant appeals against such judgment no such notice shall be given, or if given no further proceeding shall be had thereon, pending such appeal.

Proviso.

Person disobeying order of court for payment of money after service of peremptory order an act of insolvency.

13. If any decree or order shall be pronounced in any cause depending in any court, or any order shall be made in any matter of insolvency against any person residing in this island, ordering such person to pay any sum of money, and such person shall disobey such decree or order, the same having been personally served upon him, and no appeal against the same shall be pending, the person entitled to receive such sum under such decree or order, or interested in enforcing the payment thereof pursuant thereto, may make an *ex parte* application to the court by which the same shall have been pronounced to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose; and if such debtor, being personally served with such last-mentioned order thirty days before the day therein appointed for payment of such money, shall neglect to pay the same, every such debtor shall be deemed to have committed an act of insolvency on the thirty-first day after the service of such order.

Notice of acts of insolvency to agents of corporate bodies, &c.

14. If any accredited agent of any body corporate or public company shall have had notice of any act of insolvency, such body corporate or company shall be deemed to have had such notice.

No person liable upon an act of insolvency com-

15. No person shall be liable to be adjudged insolvent by reason of any act of insolvency committed more than twelve months prior to the filing of any petition for sequestration of his estate; and no adjudication of insolvency shall be deemed invalid by reason of any

act of insolvency prior to the debt of the petitioning creditor, provided there be a sufficient act of insolvency subsequent to such debt. mitted more than 12 months before petition.

And with respect to the proceedings before the estate of any person is adjudged insolvent:

16. Proceedings to obtain the sequestration of the estate of any person as insolvent shall be by petition to the district court of the district in which the debtor shall have resided or carried on business for six months next immediately preceding the time of filing such petition, except where otherwise in this Ordinance specially provided (such petition, if presented by a creditor, being in the form B. in the schedule annexed to this Ordinance, and the truth thereof verified by the affidavit of the petitioner in the form C. in such schedule; and if presented by a person against himself under the twentieth section of this Ordinance, being in the form D. specified in such schedule, and the truth thereof and of the matters required to be stated in the list annexed to such petition verified by the affidavit of such person in the form C. specified in such schedule); and every such petition shall be filed of record and prosecuted as directed by this Ordinance; and from and after the filing of such petition the said court shall have full power and authority to take such order and direction with the body of the insolvent as mentioned in this Ordinance, as also with all his property, real and personal, which he shall have in his own right before he became insolvent, as also with all such interest in any such property as such insolvent may lawfully part with, and with all his money, fees, annuities, goods, wares, merchandise, and debts, wheresoever they may be found or known, and to make or order sale thereof in manner herein mentioned, or otherwise order the same for satisfaction and payment of the creditors of such insolvent. Proceedings to originate by petition.

17. Provided that the Supreme Court or any judge thereof shall have power, whenever such court or judge may deem it expedient, to order any petition against or by any person for the sequestration of his estate, to be prosecuted in any district court with or without reference to the district in which such person resided or carried on business, and whether or not such person has resided or carried on his business for six months preceding the filing of such petition, and whether or not such person has carried on his business for that time in any particular district; or to consolidate the proceedings or any part thereof under two or more petitions for the sequestration of such estate, or to transfer any petition for such sequestration and the proceedings thereunder, and the prosecution or the further prosecution thereof, from any one district court to any other district court, and the court to which any such transfer shall be made shall have and exercise full jurisdiction therein; and any such order by the Supreme Court, or by any judge thereof, may be in such of the forms E., F., or G. in the schedule to this Ordinance annexed as may be adapted to the case, or to the like effect. Supreme Court may direct petition to be prosecuted in any district, &c.

18. The amount of the debt of any creditor petitioning for sequestration of the estate of any person as insolvent shall be as follows; that is to say, the single debt of such creditor, or of two Petitioning creditor's debt:

or more persons being partners, so petitioning shall amount to fifty pounds or upwards; and the debt of two creditors so petitioning shall amount to seventy pounds or upwards; and the debt of three or more creditors so petitioning shall amount to one hundred pounds or upwards; and every person who has given credit to any person upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such person committed an act of insolvency, may so petition or join in petitioning, whether he shall have had any security in writing for such sum or not.

though payable at a future time, and security given.

Petition by public officer of certain copartnerships.

19. A petition for sequestration as insolvent of the estate of any person indebted in the amount aforesaid to any copartnership, duly authorized to sue and be sued in the name of a public officer of such copartnership, may be filed by such public officer as the nominal petitioner for and on behalf of such copartnership.

Person may petition against himself.

20. Any person may petition for the sequestration as insolvent of his own estate; and there shall be annexed to such petition a list containing a full and true account of the petitioner's debts, and the claims against him, with the names of his creditors and claimants and the dates of contracting the debts and claims severally, as near as such dates can be stated, the nature of the debts and claims, and securities (if any) given for the same, and whether the same are disputed; and also a true account of the nature and amount of the petitioner's property, and an inventory of the same, and of the debts owing to him, with their dates, as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts: Provided, that unless such person shall forthwith after the filing of his petition, and before adjudication of insolvency thereunder, make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least five shillings in the pound, clear of all charges (to be estimated by the court) of prosecuting the petition, such petition shall be dismissed, and no further petition shall be filed by such person in the same district without the leave of the court first obtained for that purpose; and the adjudication on any further petition shall be subject to the like condition as aforesaid as to the available estate of the petitioner: Provided, however, that it shall be lawful for any person, whatever the amount of his available estate, who shall be in actual custody within the walls of any prison in this colony, upon any writ of execution against his person, or other like process, for or by reason of any debt, damages, or costs, at any time after twenty-one days from the commencement of the actual custody of such prisoner, to file a declaration of insolvency, and to petition for the sequestration as insolvent of his own estate.

Proviso.

So also may an insolvent prisoner.

If adjudication be not obtained within three days after petition, any other creditor may proceed on it.

21. If the petitioning creditor in any petition for sequestration of his debtor's estate as insolvent shall not proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as shall be allowed by the court, the court may at any time within fourteen days then next following, upon the application of any other creditor to the amount required to constitute a petitioning creditor, proceed to adjudicate

on such petition, upon the proof of the debt of such second-mentioned creditor, and of the other requisites to support such petition (except the debt of the petitioning creditor); but if neither the petitioner nor any other creditor shall within such fourteen days, or within such extended time as may be granted by the court for that purpose, apply to the court to adjudicate upon such petition, no further proceeding shall be taken thereon.

Petitions may be presented against one or more partners in a firm; and petitions against two or more may be dismissed as to one without affecting the others.

22. Any creditor whose debt is sufficient to entitle him to petition for the sequestration as insolvent of the estate of all the partners of any firm may petition for such sequestration against one or more partners of such firm, and every such petition shall be valid, although it does not include all the partners of the firm; and in every petition for sequestration against two or more persons the Court may dismiss the same as to one or more of such persons, and the validity of such petition shall not be thereby affected as to any person as to whom such petition is not ordered to be dismissed, nor shall any such person's certificate be thereby affected.

If one member of a firm be insolvent, a petition against the others shall be filed in the same court.

23. After a petition for sequestration filed against or by one or more member or members of a firm, any petition for sequestration against or by any other member of such firm shall be filed and prosecuted in the court in which the first petition was prosecuted; and immediately after the adjudication under such other petition all the estate, real and personal, of any such insolvent shall vest in the assignee, if any, under the first petition; and thereafter all separate proceedings under such other petition shall be stayed, and such petition shall, without affecting the validity of the first petition, be annexed to and form part of the same: Provided that the Supreme Court, or any judge thereof, may direct that such other petition shall be filed and prosecuted in any other district court, or be proceeded in, either separately or in conjunction with the first petition.

Proviso.

After petition filed, if the insolvent be about to quit this colony, or to remove or conceal his goods, he may be arrested and his goods seized.

24. Whenever any petition for sequestration as insolvent of the estate of any person shall have been filed against any person, and it shall be proved to the satisfaction of the court in which such petition has been filed that there is probable cause for believing that such person is about to quit this colony, or to remove or conceal any of his goods with intent to defraud his creditors, unless he be forthwith apprehended, it shall be lawful for the court to issue a warrant, directed to the fiscal, or to such person as the court shall think fit, whereby such fiscal or other person shall have authority to arrest the person against whom such petition shall have been filed, and also to seize his books, papers, monies, securities for monies, goods, and effects, wheresoever he or they may be found, and him and them safely keep until the expiration of the time allowed for adjudication on such petition, or until such person shall be adjudged insolvent under such petition, and be thereon dealt with according to this Ordinance: Provided that any person arrested upon any such warrant, or any person whose books, papers, monies, securities for monies, goods, or effects have been seized under any such warrant, may apply at any time after such arrest or seizure to the court for an order or rule on the petitioning creditor to show cause why the person

Person so arrested may apply to the court for his discharge.

arrested should not be discharged out of custody, or why his books, papers, monies, securities for monies, goods, and effects should not be delivered up to him; and it shall be lawful for such court to make absolute or discharge such order or rule.

Court, before adjudication, may summon witnesses to prove act of insolvency.

25. The court, before adjudication, may summon before it any person whom such court shall believe capable of giving any information concerning any act of insolvency committed by the person against whom any petition for the sequestration of his estate as insolvent has been filed, and may require any person so summoned to produce any books, papers, deeds, writings, and other documents in his custody, possession, or power, which may appear to the court to be necessary to establish such act of insolvency; and it shall be lawful for the court to examine any such person upon oath, by word of mouth, or interrogatories in writing, concerning such act of insolvency; and such court, before or at the time of adjudication, may examine the person by or against whom any such petition has been presented, or any other person, as to the probable value of the property of such first-mentioned person available for the payment of his debts.

And with respect to the adjudication of the estate of any person as insolvent, and the proceedings for securing the property and surrender of the insolvent:

Adjudication, and upon what proof.

26. The district court, under a petition filed by a creditor, shall, upon proof of the petitioning creditor's debt and of the act of insolvency of the person against whom such petition is filed, adjudge such person insolvent; or if in case of the failure of the petitioning creditor to proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as may be allowed by the court, another creditor shall apply for adjudication upon such petition, then upon such application, and proof of such creditor's debt, and of the act of insolvency of the person against whom such petition is filed, the court shall adjudge such person insolvent; and under a petition filed by any person against himself the court, upon the application of such person, and upon proof of the filing a declaration of insolvency, and of the sufficiency of his available estate to the extent required by this Ordinance, or upon proof of the filing of such declaration of insolvency, and that such person has been in actual custody within the walls of a prison for debt for more than twenty-one days, shall adjudge such person insolvent.

Attachment upon the estate, and how to be made.

27. Forthwith, after any person shall be adjudged insolvent, the district court shall issue to the fiscal an order (in the form H. in the schedule annexed to this Ordinance) placing the estate of the insolvent under sequestration in his hands, and such fiscal shall enter and lay an attachment on the estate, under inventory thereof; and when the same shall be sequestered upon the petition of any creditor the said fiscal shall be accompanied by the petitioning creditor, or some one authorized by him, on behalf of himself and the other creditors of the said estate; and when the said estate shall be sequestered upon the petition of any insolvent against himself it shall be lawful for any of the creditors, or for

the agent of any of the creditors, of the insolvent to accompany the fiscal and to be present with him while making out the inventory aforesaid.

Attachment of personal property, how to be made, and as to penalty for defeating the same.

28. When any personal property belonging to any insolvent is attached as aforesaid in virtue of any order for the sequestration thereof, the fiscal making such attachment shall leave with the person in whose possession any such property is attached a copy of the said inventory, having subjoined thereto a notice in the English language, and also, if he does not understand English, in the language spoken by such person, that the property therein specified has been attached by the said fiscal, by virtue of an order of the court for the sequestration thereof; and any person who, knowing the same to have been so attached, shall dispose of, remove, conceal, or receive the same, or any part thereof, with intent to defeat the said attachment, shall be liable, on conviction of such offence, to be transported for any period not exceeding seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years: Provided that it shall be lawful for such fiscal to secure on the premises, by sealing up in any room or repository any articles which in the discharge of his duty it shall seem to him expedient so to secure, causing no unnecessary hindrance or inconvenience to any party by so doing, or to leave some person on the premises in charge thereof; and the said fiscal shall forthwith report his execution of the said attachment to the said court, and the court may give such directions for the safe custody of the said property as shall seem fit.

If petitioning creditor's debt insufficient, court may proceed upon the application of any other creditor.

29. If, after adjudication of insolvency, the debt of the petitioning creditor be found by the court to be insufficient to support such adjudication, it shall be lawful for the court, upon the application of any other creditor having proved any debt sufficient to support an adjudication, to order the petition for sequestration to be proceeded in, and it shall by such order be deemed valid, which order may be in the form I. in the schedule to this Ordinance annexed, or to the like effect.

Insolvent to have notice of adjudication, and to be allowed a certain time to show cause against it before advertisement.

30. Before notice of any adjudication of insolvency shall be given in the Gazette of this colony, and at or before the time of putting in execution any order of sequestration which shall have been granted upon such adjudication, a duplicate of such adjudication shall be served on the person adjudged insolvent, personally or by leaving the same at the usual or last known place of abode or place of business of such person; and such person shall be allowed seven days, or such extended time not exceeding fourteen days in the whole as the court shall think fit, from the service of such duplicate to show cause to the court against the validity of such adjudication; and if such person shall within such time show to the satisfaction of the court that the petitioning creditor's debt, and the act of insolvency upon which such adjudication has been grounded, or either of such matters, are insufficient to support such adjudication, and upon such showing no other creditor's debt and act of insolvency sufficient to support such adjudication, or such of the said last-mentioned matters as shall be requisite to support such adjudication,

in lieu of the petitioning creditor's debt and act of insolvency, or either of such matters which shall be deemed insufficient in that behalf, as the case may be, shall be proved to the satisfaction of the court, the court shall thereupon order (in the form K. in the schedule to this Ordinance annexed, or to the like effect,) such adjudication to be annulled, and the same shall by such order be annulled accordingly; but if at the expiration of the said time no cause shall have been shown to the satisfaction of the court for the annulling of such adjudication, the court shall forthwith, after the expiration of such time, cause notice of such adjudication to be given in the said Gazette, and, if the court considers it expedient, in the London Gazette, and in the gazettes published at each of the presidencies of India, and shall thereby appoint two public sittings of the court for the insolvent to surrender and conform, the last of which sittings shall be on a day not less than thirty days and not exceeding sixty days from such advertisement in the Gazette of this colony, and shall be the day limited for such surrender; and copies and translations of such advertisement shall also be affixed on the wall of the district court, and of the nearest cutcherry: Provided that the court shall have power from time to time to enlarge the time for the insolvent surrendering himself for such time as the court shall think fit, so as every such order be made six days at least before the day on which such insolvent was to surrender himself; and also from time to time to adjourn either of the said sittings if the court shall deem it necessary to do so: Provided also, that if any person so adjudged insolvent shall, before the expiration of the time allowed for showing cause, surrender himself and give his consent, testified in writing under his hand, to such adjudication being advertised, the court after such consent so given shall forthwith cause the notice of adjudication to be advertised, and appoint the sittings for the insolvent to surrender and conform.

Proviso.

Adjudication may, with insolvent's consent, be advertised before the time for showing cause.

Insolvent to deliver up his books of accounts to the court upon oath;

to attend assignees;

to be at liberty to inspect books, &c.;

after allowance of certificate to

31. Forthwith after the insertion of the notice of adjudication in the Gazette of this colony, or, if the insolvent before the expiration of the time allowed for showing cause against the adjudication surrender himself and give consent to such insertion, forthwith after such surrender the insolvent shall (if thereto required by the court) deliver up to the court upon oath all books of account, papers, and writings relating to his estate in his custody or power, and discover such as are in the custody or power of any other person; and every insolvent not in prison or custody shall at all times after such surrender attend the assignees, upon every reasonable notice in writing for that purpose given by them to him or left at his usual or last known place of abode, and shall assist such assignees in making out the accounts of his estate; and such insolvent after he shall have surrendered may, at all seasonable times before the expiration of such time as shall be allowed to him to finish his examination, inspect his books, papers, and writings in the presence of his assignees, or any person appointed by them, and bring with him each time any two persons to assist him; and every such insolvent after he shall have obtained his certificate shall, upon

demand in writing given to him or left at his usual or last known place of abode, attend the assignees to settle any accounts between his estate and any debtor to or creditor thereof, or attend any court to give evidence touching the same, or do any act necessary for getting in or protecting the said estate, for which attendance he shall be paid by the assignees out of his estate such sum, not exceeding ten shillings per day, as they shall deem reasonable.

attend assignees in settling accounts.

Allowance for attendance.

32. In all cases where it shall be made to appear to the satisfaction of the district court that there is reason to suspect and believe that any property of any insolvent is concealed in any house or other place not belonging to such insolvent, the court may grant a search warrant to the fiscal or other person appointed by the court, and it shall be lawful for such fiscal or other person to execute such warrant according to the tenor thereof; and such fiscal or other person shall be entitled to the same protection as is allowed by law in execution of a search warrant for property reputed to be stolen, and every such search warrant shall be in the form L. in the schedule to this Ordinance annexed, or to the like effect.

Search warrants, in what cases.

33. No action shall be brought against any fiscal or other person appointed by the court for anything done in obedience to any warrant of the court, unless demand of the perusal and copy of such warrant hath been made or left at the usual place of abode of such fiscal or other person by the party intending to bring such action, or by his proctor or agent, in writing, signed by the party demanding the same, and unless the same hath been refused or neglected for six days after such demand; and if after such demand, and compliance therewith, any action be brought against such fiscal or person so appointed, without making the petitioning creditor defendant, if living, the court at the trial of such action, on the production and proof of such warrant, shall give judgment for the defendant, notwithstanding any defect of jurisdiction in the court by which such warrant shall have been granted; and if such action be brought against the petitioning creditor and the fiscal or person so appointed, the court shall, on proof of such warrant, give judgment for such fiscal or person so appointed, notwithstanding any such defect of jurisdiction; and if the judgment shall be given against the petitioning creditor, the plaintiff shall recover his costs against him, to be taxed so as to include such costs as the plaintiff is liable to pay to the fiscal or person so appointed as aforesaid.

No action against persons for acting under warrant of the court, without demand of copy of warrant.

34. In any such action brought against the petitioning creditor, either alone or jointly with any fiscal or other person so appointed by the court, for anything done in obedience to the warrant of the court, proof by the plaintiff in such action that the defendant or defendants or any of them is or are petitioning creditor or creditors shall be sufficient for the purpose of making such defendant or defendants liable in the same manner and to the same extent as if the act complained of in such action had been done or committed by such defendant or defendants.

Proof in such actions that defendant is petitioning creditor sufficient to render him liable.

35. It shall be lawful for any fiscal acting under warrant of the court to break open any house, chamber, shop, warehouse,

Fiscal may break open the

insolvent's doors, &c., and seize upon his body or property.

door, trunk, or chest of any insolvent where such insolvent or any of his property shall be reputed to be, and seize upon the body or property of such insolvent; and if the insolvent be in prison or in custody it shall be lawful for the fiscal to seize any property of the insolvent (his necessary wearing apparel only excepted) in the custody or possession of such insolvent or of any other person, in any prison or place where such insolvent is in custody.

Insolvent not in custody to be free from arrest in coming to surrender, &c.

36. If the insolvent be not in prison or custody at the date of the adjudication, he shall be free from arrest or imprisonment by any creditor in coming to surrender, and after such surrender during the time by this Ordinance limited for such surrender, and for such further time as shall be allowed him for finishing his examination, and for such time after finishing his examination until his certificate be allowed as the court shall from time to time by endorsement upon the summons of such insolvent, or by writing under the hand of the judge of such court, think fit to appoint; and whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment, or sentence, the court may by warrant directed to the person in whose custody he is confined cause him to be brought before it at any sitting, either public or private, and if he be desirous to surrender, he shall be so brought up, and the expense thereof shall be paid out of his estate, and such person shall be indemnified by the warrant of the court for bringing up such insolvent; and where any person who has been adjudged insolvent, and has surrendered and obtained his protection from arrest, is in prison or in custody for debt at the time of his obtaining such protection, the court may, except in the cases next herein-after mentioned, order his immediate release, either absolutely or upon such conditions as it shall think fit: Provided that the court shall not order such release, where it shall appear by any judgment, order, commitment, or sentence under which the insolvent is in prison or in custody, or by the record or entry of any such judgment, order, commitment, or sentence, and the pleadings or proceedings previously thereto, that he is in prison or in custody for any debt contracted by fraud or breach of trust, or by reason of any prosecution against him whereby he had been convicted of any offence, or for any debt contracted by reason of any judgment in any proceeding for breach of the revenue laws, or in any action for breach of promise of marriage, seduction, criminal conversation, libel, slander, assault, battery, malicious arrest, malicious trespass, or maliciously filing or prosecuting a petition for sequestration of the estate of any person as insolvent: Provided also, that such release shall in nowise affect any rights of the creditor at whose suit the insolvent may be in prison or in custody against the insolvent, except the right of detaining him in prison or in custody, whilst protected from imprisonment by order of the court.

If in custody, he may be brought up to be examined, or to surrender, &c.; and if for debt, the court may, except in certain cases, order his release.

Proviso.

Proviso.

If arrested, to be discharged on producing protection.

37. If any insolvent shall be arrested for debt in coming to surrender, or shall after his surrender and while protected by order of the court be so arrested, he shall, on producing such protection to the officer who shall arrest him, and giving such officer a copy thereof, be immediately discharged; and if any

officer shall detain any such insolvent after he shall have shown such protection to him, except for so long as shall be necessary for obtaining a copy of the same, such officer shall forfeit to such insolvent, for his own use, the sum of five pounds for every day he shall detain such insolvent, to be recovered by action in any competent court in the name of such insolvent, with costs of suit.

Petitioning creditor to proceed at his own costs until choice of assignees.

38. The petitioning creditor shall, at his own cost, file and prosecute his petition until the choice of assignees by the creditors; and the court shall at or after the sitting for such choice make order for the payment thereof out of the estate of the insolvent.

No objection to petition for sequestration, that the act of insolvency was concerted

39. No petition for sequestration of the estate of any person as insolvent shall be dismissed, nor any adjudication thereon reversed, by reason only that the petition, or adjudication, or act of insolvency has been concerted or agreed upon between the insolvent, his proctor or agent, or any of them, and any creditor or other person.

Court may proceed notwithstanding death of insolvent.

40. If any person shall die after he has been adjudged insolvent, the court may proceed in the matter of such insolvency as if such insolvent were living.

Court may summon and examine insolvent.

41. The court may summon any insolvent before it, whether such insolvent shall have obtained his certificate or not; and in case he shall not come at the time appointed by the court (having no lawful impediment made known to and allowed by the court at such time), it shall be lawful for the court, by warrant, to authorize and direct the fiscal, or any person the court shall think fit, to apprehend and arrest such insolvent and bring him before the court; and upon the appearance of such insolvent, or if such insolvent be present at any sitting of the court, it shall be lawful for the court to examine or to permit the examination by the creditors of such insolvent after he shall have made and signed a declaration in the form M. in the schedule to this Ordinance annexed, either by word of mouth or on interrogatories in writing, touching all matters relating to his trade, dealings, or estate, or which may tend to disclose any secret grant, conveyance, or concealment of his lands, goods, money, or debts, and to reduce his answers into writing, which examination, so reduced into writing, the said insolvent shall sign.

Court may summon and examine the insolvent's wife.

42. It shall be lawful for the court to summon before it the wife of any insolvent, and to examine her, or to permit her examination 9y the creditors of such insolvent, after she shall have made and signed a declaration in the form M. in the schedule to this Ordinance annexed, either by word of mouth or interrogatories in writing, for the finding out and discovery of the property of such insolvent concealed, kept, or disposed of by such wife in her own person or by her own act, or by any other person, and she shall incur such danger or penalty for not coming before the court, or for refusing to make and sign such declaration and to be examined, or to sign her examination, or for not fully answering to the satisfaction of the court, as is herein-after provided.

If insolvent keep out of the way, or be about

43. If in any case it shall be proved to the satisfaction of the court that any insolvent is keeping out of the way and cannot be personally served with a summons, and that due pains have been

to quit this colony, &c., warrant.

taken to effect such personal service, or that there is probable cause for believing that he is about to quit this colony, or to remove or conceal any of his goods or effects, unless he be forthwith apprehended, it shall be lawful for such court, by warrant, to authorize and direct the fiscal, or any person it shall think fit, to apprehend and arrest such insolvent, and bring him before the court to be examined in like manner as if he appeared upon a summons.

Court may summon persons suspected of having insolvent's property, &c.,

44. After any person has been adjudged insolvent it shall be lawful for the district court to summon before it any person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, or any person the court may believe capable of giving information concerning the person, trade, dealings, or estate of the insolvent, or concerning any act of insolvency committed by him, or any information material to the full disclosure of his dealings; and the court may require such person to produce any books, papers, deeds, writings, or other documents in his custody or power which may appear to the court necessary to the verification of the deposition of such person, or to the full disclosure of any of the matters which the court is authorized to inquire into; and if such person so summoned as aforesaid shall not come before the court at the time appointed, having no lawful impediment (made known to the court at the time of its sitting, and allowed by it), it shall be lawful for the court by warrant to authorize and direct the fiscal, or other person therein named for that purpose, to apprehend and arrest such person and bring him before the court for examination.

and if they fail to attend, warrant.

Service of summons where person keeps out of the way.

45. Where it shall be shown by affidavit to the satisfaction of the court that any person to whom any such summons is directed as aforesaid is keeping out of the way and cannot be personally served therewith, and that due pains have been taken to effect such personal service, it shall be lawful for the court to order by endorsement upon the summons that the delivery of a copy of such summons to the wife or servant, or some adult inmate of the house or family of the person at his usual or last known place of abode or business, and explaining the purport thereof to such wife, servant, or inmate, shall be equivalent to personal service; and in every such case the service of such summons in pursuance of such order shall be and be deemed and taken to be of the same force and effect to all intents and purposes as if the party to whom such summons was directed had been personally served therewith.

Power to examine persons summoned or present at any sitting.

46. Upon the appearance of any person summoned or brought before the court upon any warrant as aforesaid, or if any person be present at any sitting of the court, it shall be lawful for the court to examine or to permit the examination by the creditors of every such person upon oath, either by word of mouth or by interrogatories in writing, concerning the person, trade, dealings, or estate of any insolvent, or concerning any act of insolvency by any insolvent committed, and to reduce into writing the answers of every such person; and such answers so reduced into writing such person examined is hereby required to sign.

Court may order payment

47. If any such person examined as last aforesaid shall, in and by his examination signed as aforesaid, and also in and by a separate

writing in the form N. in the schedule to this Ordinance annexed, admit that he is indebted to the insolvent in any sum of money upon the balance of accounts, it shall be lawful for the court, if it think fit, to order (in the form O. in the schedule to this Ordinance annexed, or to the like effect) that such person shall forthwith, or at such time and in such manner as to the court may seem expedient, pay the amount so admitted, in full discharge thereof, to the assignees, together with the costs of and incident to the summons of such person, if the court think fit to award costs, or the court may, if it think fit, in the said form O., order the assignees to pay the costs of the person summoned out of the estate of the insolvent; and every such order shall have the effect of a judgment in the said court, and may be enforced accordingly: Provided always, that no such order shall be made unless such party has been informed by the judge of the effect of such admission before the same is signed as aforesaid: Provided also, that if part only of the sum actually due be so admitted, or if the court make an order for part only of the sum admitted, the residue may be recoverable in the same manner in all respects as if no such admission or order had been made.

of debts admitted to be due to the estate;

such order to have effect of judgment.

Proviso.

Proviso.

48. The district court may order that for a period of three months from the date of any such order all post letters directed or addressed to any insolvent at the place of which he shall be described in the petition for sequestration of his estate as insolvent, shall be re-directed, re-addressed, sent, or delivered by the Postmaster-General of this colony, or the officers acting under him, to the assignees named in such order; and upon notice by transmission of a duplicate of any such order to the Postmaster-General, or the officers acting under him, by the assignees or other person named in such order, of the making of such order, it shall be lawful for the Postmaster-General, or such officers as aforesaid, to re-address, re-direct, send, or deliver all such post letters to the assignees named in such order accordingly; and the court may, upon any application to be made for that purpose, renew any such order for a like or for any other less period as often as may be necessary.

Court may order letters addressed to insolvent to be re-directed or delivered to assignees, &c.

And with respect to the power of the district court over certain descriptions of property:

49. If any insolvent, at the time he commits the act of insolvency, shall, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or effects whereof he was reputed owner, or whereof he had taken upon him the sale or disposition as owner, the court shall have power to order the same to be sold or disposed of for the benefit of the creditors of the insolvent: Provided that nothing herein contained shall invalidate or affect any transfer or assignment of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of an Act made in the Parliament holden in the eighth and ninth years of the reign of Her Majesty, entitled "An Act for the registering of British vessels," or any of the Acts therein mentioned.

Goods in the possession, order, or disposition of the insolvent to be deemed his property.

Proviso for assignments of vessels under 8 & 9 Vict. c. 89.

50. But if there shall be found among the insolvent's property at the time of its seizure any wares, goods, or merchandise con-

Consigned goods, &c. to

be given up to the owner.

signed to him for the special purpose of being sold by him on commission, or intrusted in his hands for any specific purpose, and which evidently are the property of the consignor or person so intrusting, notice thereof shall be transmitted to the owners as soon as possible, in order that they may take the necessary measures to secure their property, and the same shall be carefully preserved, and shall be delivered over to the lawful owners.

Conveyances, &c. by insolvent without valuable consideration void.

51. If any person adjudged insolvent under this Ordinance shall (except upon the marriage of any of his children, or for some valuable consideration) have conveyed, assigned, or transferred to any of his children, or to any other person, any real or personal property whatsoever, or have delivered or made over to any such person any bills, bonds, notes, or other securities, or have transferred his debts to any other person, or into any other person's name, such first-mentioned person being at the time of making any such conveyance, assignment, transfer, or delivery insolvent, the court shall have power to order any such property to be sold and disposed of for the benefit of the creditors under the insolvency; and every such sale shall be valid against the insolvent and such children and persons, and against all persons claiming under him.

Seizure of goods for rent not to be available for more than one year's rent due; the landlord to prove for the residue.

52. No seizure or detention of the goods of any insolvent for rent made after an act of insolvency, and whether before or after the filing of the petition for sequestration of his estate, shall be available for more than one year's rent accrued prior to the day of the filing of such petition, but the landlord or person to whom the rent shall be due shall be allowed to come in as creditor for the overplus of the rent due, and for which the goods seized shall not be available.

Where insolvent is a trustee, the court may order conveyance or assignment to another trustee.

53. If any insolvent shall as trustee be seized, possessed of, or entitled to, either alone or jointly, any real or personal estate, or any interest secured upon or arising out of the same, or shall have standing in his name as trustee, either alone or jointly, any funds or annuities, or any of the stock of any public company in this colony, it shall be lawful for the court, on the petition of the person entitled in possession to the receipt of the rents, issues, and profits, dividends, interest, or produce thereof, on due notice given to all other persons (if any) interested therein, to order the assignees, and all persons whose act or consent thereto is necessary, to convey, assign, or transfer the said estate, interest, funds, or annuities to such person as the said court shall think fit, upon the same trusts as the said estate, interest, funds, or annuities were subject to before the insolvency, or such of them as shall be then subsisting and capable of taking effect, and also to receive and pay over the rents, issues, and profits, dividends, interest, or produce thereof as the said court shall direct.

Title to property sold not to be impeached unless insolvency deiputsd within a certain time.

54. No title to any real or personal estate sold under any insolvency shall be impeached by the insolvent, or any person claiming under him, in respect of any defect in the petition for sequestration, or in any of the proceedings under the same, unless the insolvent shall, within the time allowed by this Ordinance, have commenced proceedings to dispute, dismiss, or annul the petition or adjudication thereunder, and duly prosecuted the same.

55. After the adjudication of insolvency in any case shall have been advertised in the Gazette of this colony, it shall be lawful for the court to order any treasurer or other officer, or any banker, attorney, proctor, or other agent of the insolvent, to pay and deliver over to the assignees, to the credit of the estate of such insolvent, all monies or securities for money in his custody, possession, or power as such officer or agent, and which he is not by law entitled to retain against the insolvent or his assignees.

The court, after adjudication, may order any agent of the insolvent to deliver over all monies, &c.

And with respect to transactions with the insolvent, and executions against his property up to the time of the filing of the petition for sequestration of his estate as insolvent, or within a limited time previously thereto:

56. All payments really and *bonâ fide* made by any insolvent, or by any person on his behalf, before the filing of a petition for sequestration of his estate as insolvent, to any creditor of such insolvent, and all payments really and *bonâ fide* made to any insolvent before the filing of such petition, and all conveyances by any insolvent *bonâ fide* made and executed before the filing of such petition, and all contracts, dealings, and transactions by and with any insolvent really and *bonâ fide* made and entered into before the filing of such petition, and all executions and attachments against the lands of any insolvent *bonâ fide* executed by seizure, and all executions and attachments against the goods and effects of any insolvent *bonâ fide* executed and levied by seizure and sale before the date of the filing of such petition, shall be deemed to be valid notwithstanding any prior act of insolvency by such insolvent committed, provided the person so dealing with or paying to or being paid by such insolvent, or at whose suit or on whose account such execution or attachment shall have issued, had not at the time of such payment, conveyance, contract, dealing, or transaction, or at the time of such executing or levying such execution or attachment, or at the time of making any sale thereunder, notice of any prior act of insolvency by him committed: Provided always, that nothing herein contained shall be deemed or taken to give validity to any payment, or to any delivery or transfer of any goods or effects made by any insolvent being a fraudulent preference of any creditor of such insolvent, or to any conveyance or mortgage made or given by any insolvent by way of fraudulent preference of any creditor of such insolvent, or to any execution founded on a judgment on a power of attorney to confess judgment, or consent to a judgment given by any insolvent by way of fraudulent preference.

Payment by insolvent; conveyances by him; contracts and dealings with him; and executions; in what cases valid, if no notice of act of insolvency; but not to extend to fraudulent preferences, &c.

57. No purchase from any insolvent *bonâ fide* and for valuable consideration, where the purchaser had notice at the time of such purchase of an act of insolvency by such insolvent committed, shall be impeached by reason thereof, unless a petition for sequestration of the estate of such insolvent shall have been filed within twelve months after such act of insolvency.

Bonâ fide purchases not to be impeached by notice of act of insolvency, unless petition be filed within 12 months after the act of insolvency.

58. Every transaction, dealing, transfer, delivery, alienation, mortgage, pledge, or payment by any insolvent to or with any

Fraudulent preferences according to the

law of England to be deemed such in like cases within this colony.

creditor of such insolvent, or to or with any other person, which by the law of England at the corresponding period would be and be deemed to be a fraudulent preference of one creditor before other creditors in any proceeding in bankruptcy, or in any suit or action, shall, in the like case arising within this colony, be and be deemed to be a fraudulent preference according to the true intent and meaning of this Ordinance.

Certain powers of attorney to confess judgment, and consents to judgments, given within two months of filing petition, to be null and void.

59. Every power of attorney to confess judgment in any personal action given by any insolvent after the commencement of this Ordinance, and within two months of the filing of a petition for sequestration of his estate by or against such insolvent, and being for or in respect of (wholly or in part) an antecedent debt or money demand, and every consent to a judgment given by any insolvent at any time after the commencement of this Ordinance, and within two months of the filing of any such petition, in any action commenced by collusion with the insolvent, and not adversely or purporting to have been given in an action, but having been in fact given before the commencement of any action against the insolvent, such insolvent being unable to meet his engagements at the time of giving such power of attorney or consent (as the case may be), shall be deemed and taken to be null and void, whether the same shall have been given by such insolvent in contemplation of the sequestration of his estate as insolvent or not.

And with respect to stamps :

Deeds and other instruments relating to insolvency not liable to stamp duty.

60. No deed, conveyance, assignment, admission, or other assurance of or to or relating solely to any lands, or to any mortgage, charge, or other incumbrance upon, or any estate, right, or interest of and in any lands or personal estate, being the estate of or belonging to any insolvent, or part or parcel thereof, and which after the execution of such deed, conveyance, assignment, or assurance respectively shall either be or remain the estate and property of such insolvent, or of the assignees appointed or chosen under any insolvency, and no power of attorney, order, certificate of conformity, affidavit, or other instrument or writing whatsoever relating solely to the estate or effects of any insolvent, or to any part thereof, or to any proceeding under any insolvency, and no affidavit, bond, or other proceeding under this Ordinance relating solely to insolvency matters, shall be liable to any stamp duty, save and except such stamp duty as is mentioned in schedule P. to this Ordinance annexed.

Certain documents to be stamped.

61. Every document enumerated in the schedule P. to this Ordinance annexed shall be printed or written upon paper having the stamp duty set opposite to such document respectively in such schedule : Provided that where any such document shall consist of more than one sheet only the first sheet thereof shall be impressed with such stamp.

Provisions of Stamp Ordinance to extend to stamps under this Ordinance.

62. The provisions contained in the Ordinance for the time being in force relating to stamps shall (so far as the same are applicable and consistent with the provisions of this Ordinance), in all cases not hereby expressly provided for, be of full force and

effect with respect to the stamps to be provided under and by virtue of this Ordinance, and to the paper on which the same shall be impressed, and shall be applied and put in execution for collecting and securing the sums of money denoted thereby, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively.

Documents not to be received unless stamped.

63. No document which by this Ordinance is required to have a stamp impressed thereon shall be received or filed or be used in relation to any proceedings in the court, or be of any validity for any purpose whatever, unless or until the same shall have a stamp impressed thereon: Provided that if at any time it shall appear that any such document which ought to have had a stamp impressed thereon has, through mistake or inadvertence, been received or filed or used without having such stamp, it shall be lawful for the court, if it think fit, to order that such stamp shall be impressed thereon; and thereupon, when a stamp shall have been impressed on such document in compliance with such order, such document and every proceeding in reference thereto shall be as valid and effectual as if such stamp had been impressed thereon in the first instance.

Proviso.

And with respect to the appointment by the court of provisional assignees:

As to appointment by court of provisional assignee.

64. It shall be lawful for the district court, on cause shown by any person interested in the due administration of the insolvent estate at any time after the adjudication of insolvency, by order of court to appoint one or more fit person or persons to be assignee or assignees of any insolvent estate provisionally, and until the creditors of the said estate shall have made choice of assignees, which provisional assignees may be removed at the meeting of creditors for the choice of assignees if the said creditors shall think fit, or may then be chosen as assignees, but shall and may, until so removed, act in the collection, administration, and distribution of the said estate in all respects the same as assignees elected by the creditors are by this Ordinance authorized or required to do: Provided that no such provisional assignees shall proceed to make sale of any part of the said estate without the authority for that purpose of the said court first had and obtained.

Proviso.

Effect of appointment of provisional assignee.

65. Every order of court appointing provisional assignees shall, so soon as made, have the effect in law to vest in such provisional assignees for the uses and purposes of the sequestration, and until their removal, all the present and future estate of the insolvent, real and personal, as fully and completely to all intents and purposes as the said estate is by virtue of the 70th and 71st sections of this Ordinance vested in the assignees chosen by the creditors.

And with respect to the choice of assignees, and their rights and duties:

Assignees, when and how chosen.

66. At the first public sitting appointed by the court under any insolvency, or at any adjournment thereof, assignees of the

insolvent's estate and effects shall and may be chosen and appointed; and all creditors who have proved debts to the amount of ten pounds and upwards shall be entitled to vote in such choice; and also any person authorized by letter of attorney from any such creditor, upon proof of the execution thereof, either by affidavit or by oath before the court *vivâ voce;* and the choice and appointment shall be made by the major part in value of the creditors so entitled to vote: Provided that the court shall have power to reject any person so chosen who shall appear to such court unfit to be an assignee, or to remove any assignee; and upon such rejection or removal a new choice and appointment of another assignee shall be made in like manner.

Court may reject or remove any person chosen as unfit.

Joint creditor entitled to prove under separate estate for the purpose of voting in the choice of assignees.

67. If one or more of the partners of a firm be adjudged insolvent, any creditor to whom the insolvent is indebted jointly with the other partners of the firm, or any of them, shall be entitled to prove his debt for the purpose only of voting in the choice of assignees and of being heard against the allowance of the insolvent's certificate, or of either of such purposes; but such creditor shall not receive any dividend out of the separate estate of the insolvent until all the separate creditors shall have received the full amount of their respective debts.

Who incompetent to be appointed assignee.

68. In no case shall it be competent for the creditors to elect as assignee the insolvent himself, or any person related to the insolvent by consanguinity or affinity within the fourth degree, nor any minor, nor any proctor, nor any person not resident within this colony, nor any person having an interest opposed to the general interest of the creditors in the insolvent estate, nor any person declared to be incapable of being elected by virtue of the provisions in the next succeeding section contained.

Acts of assignee entitling the court to set election aside, and declare offender disqualified.

69. If any person elected as assignee shall be proved to the satisfaction of the district court to have, either directly or indirectly, given or promised to give to any creditor of the insolvent any species of valuable consideration whatsoever, in order to obtain the vote of such creditor at the choice of assignees, or to have agreed to secure and make good to any creditor some certain sum or dividend in discharge or diminution of his debt, upon condition or in order that such creditor should give his vote to such assignee, or to have offered or agreed, in case any creditor of the insolvent should consent to vote for such assignee, to abstain from opening up or investigating some previous transactions between such creditor and the insolvent which were, or were supposed to be, of questionable validity, or to have contrived or been privy to any plan or arrangement by which debts or securities really belonging to some one or more persons have been divided amongst a greater number of persons for the purpose merely of increasing the number of votes at the election for assignees and thereby influencing the same, or to have undertaken to share with any creditor of the insolvent, in return for his vote, the commission or remuneration to be awarded to him as such assignee, the court shall declare such assignee to have forfeited the office of such assignee in regard to the insolvent estate for

which he shall have been elected, and to be incapable of being again elected thereto; and it shall be lawful for such court, if it should so think fit, to further declare that the person so offending shall be incapable of being elected an assignee under the provisions of this Ordinance for and during his natural life, or for such period as such court shall determine and adjudge; and any person interested in the due administration of the insolvent estate may apply by motion to such court to declare any such assignee to have forfeited his office by reason of any such misconduct as aforesaid; and as often as a vacancy in the office of assignee shall be created by any such forfeiture, the court declaring the same shall order a new assignee to be chosen by the creditors, and the same proceedings shall be had thereon as on the original election of assignees.

Personal estate to vest in assignees.

70. When any person shall have been adjudged an insolvent all his personal estate and effects, present and future, wheresoever the same may be found or known, and all property which he may purchase, or which may revert, descend, be devised or bequeathed, or come to him before he shall have obtained his certificate, and all debts due or to be due to him, wheresoever the same may be found or known, and the property, right, and interest in such debts, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment; and after such appointment neither the insolvent nor any person claiming through or under him shall have power to recover the same, nor to make any release or discharge thereof; but such assignees shall have like remedy to recover the same in their own names as the insolvent himself might have had if he had not been adjudged insolvent.

Real estate to vest in assignees.

71. When any person shall have been adjudged an insolvent, all lands in this colony to which any insolvent is entitled, and all interests to which such insolvent is entitled in any such lands, and of which he might according to the laws of this colony have disposed, and all such lands in this colony as he shall purchase, or as shall descend, be devised, revert to, or come to such insolvent before he shall have obtained his certificate, and all deeds, papers, and writings respecting the same, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment, without any deed of conveyance for that purpose, and as often as any such assignee shall die or be lawfully removed or displaced, and a new assignee shall be duly appointed, such of the aforesaid real estate as shall remain unsold or unconveyed shall, by virtue of such appointment, vest in the new assignee, either alone or jointly with the existing assignees, as the case may require, without any conveyance for that purpose.

Insolvent not liable to rents or covenants in conveyances, leases, &c., if assignees accept the same.

72. If the assignees of the estate and effects of any insolvent having or being entitled to any land under a conveyance to him, or under an agreement for any such conveyance, subject to any perpetual yearly rent reserved by such conveyance or agreement, or having or being entitled to any lease or agreement for a lease,

shall elect to take such land, or the benefit of such conveyance or agreement, or such lease or agreement for a lease, as the case may be, the insolvent shall not be liable to pay any rent accruing after the filing of the petition for sequestration of his estate against him, or to be sued in respect of any subsequent non-observance or non-performance of the conditions, covenants, or agreements in any such conveyance or agreement, or lease or agreement for a lease; and if the assignees shall decline to take such land, or the benefit of such conveyance or agreement or lease or agreement for lease, the insolvent shall not be liable if, within fourteen days after he shall have had notice that the assignees have declined, he shall deliver up such conveyance or agreement or lease or agreement for lease to the person then entitled to the rent, or having so agreed to lease, as the case may be; and if the assignees shall not (upon being thereto required) elect whether they will accept or decline such land or conveyance or agreement for conveyance, or such lease or agreement for a lease, any person entitled to such rent, or having so conveyed or agreed to convey, or leased or agreed to lease, or any person claiming under him, shall be entitled to apply to the district court, and the district court may order them to elect and deliver up such conveyance or agreement for conveyance, or lease or agreement for lease, in case they shall decline the same, and the possession of the premises, or may make such other order therein as it shall think fit.

How if assignees decline.

How assignees compelled to elect.

Assignees how compelled to elect whether they will abide by or decline agreement for the purchase of land.

73. If any insolvent shall have entered into any agreement for the purchase of any estate or interest in land, the vendor thereof, or any person claiming under him, if the assignees shall not (upon being thereto required) elect whether they will abide by and execute such agreement or abandon the same, may apply to the district court, and the court may thereupon order them to deliver up the agreement and the possession of the premises to the vendor or person claiming under him, or may make such other order therein as such court shall think fit.

Assignees may execute power vested in the insolvent.

74. All powers vested in any insolvent which he might legally execute for his own benefit may be executed by the assignees for the benefit of the creditors in such manner as the insolvent might have executed the same.

Court may order insolvent to join in conveyances.

75. It shall be lawful for the district court, upon the application of the assignees or of any purchaser from them of any part of the insolvent's estate, if such insolvent shall not try the validity of the adjudication, or if there shall have been a judgment establishing its validity, to order the insolvent to join in any conveyance of such estate or any part thereof; and if he shall not execute any such conveyance within the time directed by the order, such insolvent and all persons claiming under him shall be stopped from objecting to the validity of such conveyance, and all estate, right, or title which such insolvent had therein shall be as effectually barred by such order as if such conveyance had been executed by him.

Property mortgaged or pledged may be

76. If any insolvent shall have granted, conveyed, assured, or pledged any real or personal estate, or deposited any deeds, such grant, conveyance, assurance, pledge, or deposit being upon condi-

tion or power of redemption at a future day by payment of money or otherwise, the assignees may, before the time of the performance of such condition, make tender or payment of money or other performance, according to such condition, as fully as the insolvent might have done, and after such tender, payment, or performance such real or personal estate may be sold and disposed of for the benefit of the creditors.

redeemed by the assignees.

77. In every case the assignees may, with the approbation of the district court, appoint the insolvent himself to superintend the management of the estate, or to carry on the trade of such insolvent for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the insolvent's estate and effects, in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

Assignees may appoint the insolvent to manage the estate.

78. The assignees shall be subject to the orders of the district court in their conduct as assignees; and it shall be lawful for the court at all times to summon the assignees, and require them to produce all books, papers, deeds, writings, and other documents relating to the insolvency in their possession, and to direct them to pay and deliver over to the court all monies, books, papers, deeds, writings, and other documents which may have come to their possession or custody as such assignees.

Assignees to be subject to orders of the court.

79. If any person adjudged insolvent shall at the time of the adjudication of insolvency be a member of a firm it shall be lawful for the district court to authorize the assignees, upon their application, to commence or prosecute any action in the name of such assignees and of the remaining partner against any debtor of the partnership, and such judgment, decree, or order may be obtained therein as if such action had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand for which such action is instituted such release shall be void; provided that every such partner shall have notice given him of such application, and be at liberty to show cause against it, and if no benefit be claimed by him by virtue of the said proceedings, shall be indemnified against the payment of any costs in respect of such action in such manner as the court may direct; and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action as such court shall direct.

Where one of a firm is insolvent, the court may authorize action in name of the assignees and of the other partner.

Partner to have notice, and may show cause.

80. The assignees shall, subject to the directions of the creditors given at any meeting of such creditors, forthwith proceed to make sale of all the property belonging to the insolvent, real and personal, giving due notice thereof in the Government Gazette, and also such other notice as they shall think fit; provided that from the sale of the said personal property shall be excepted, until the creditors shall determine thereon, the wearing apparel, bedding, household furniture, and tools of trade of the insolvent and his family; and provided that the sale of all real property shall take place in such manner and under such conditions as shall be determined on by the greater part in number and value of the creditors present at any meeting duly summoned; provided, however, that such conditions shall be subject to the

As to sale of estates by assignees, conditions of sale, &c.

approval or disapproval of the district court on the application of any person interested therein.

As to wearing apparel, tools, &c. of insolvent.

81. It shall be lawful for the assignees, with the consent of the greater part in number and value of the creditors who shall have proved their debts present at any meeting of creditors whereof, and of the purpose of which ten days notice shall have been given in the Government Gazette, to permit the insolvent to retain, for his own use, the whole or such part of his wearing apparel, bedding, household furniture, and tools of trade excepted from the sale of his personal property as the said creditors shall agree to allow to the said insolvent; provided that every such permission shall be subject to the approval or disapproval of the district court on the application of any person interested in the due administration of the estate.

Assignees, with leave of the court, may bring or defend actions.

May compound debts;

and refer disputes to arbitrators.

82. The assignees, with the leave of the district court first obtained, upon application to such court, but not otherwise, may commence, prosecute, or defend any action which the insolvent might have commenced and prosecuted or defended, and in such case the costs to which they may be put in respect of such action shall be allowed out of the proceeds of the estate and effects of the insolvent; and with like leave of the court, after notice to the creditors, and subject to such condition (if any) as to obtaining the consent of creditors, or any proportion of them as the court shall think fit to direct, the assignees may take such reasonable part of any debt due to the insolvent's estate as may by composition be obtained, or may give time or take security for the payment of such debts, and may, with like leave of the court, submit to arbitration any difference or dispute between the assignees and any other person for or on account or by reason of anything relating to the estate and effects of the insolvent.

Reference to arbitration may be made a rule of court.

83. If the assignees shall agree in manner aforesaid to refer any matter in dispute to arbitration, such agreement of reference may be made a rule of court, whether such agreement contain a clause to that effect or not.

If petition or adjudication be annulled, &c., persons from whom the assignees have recovered, or who have bonâ fide paid the assignees, &c., discharged from claims by the insolvent.

84. All persons from whom the assignees shall have recovered any real or personal estate, either by judgment or decree, are hereby discharged in case the petition for sequestration or the adjudication of insolvency thereunder be afterwards annulled or dismissed from all demands which may thereafter be made in respect of the same by the person against whom such adjudication was made, and all persons claiming under him; and all persons who shall, without action, *bonâ fide* deliver up possession of any real or personal estate to the assignees, or pay any debt claimed by them, are hereby discharged from all claim of any such person as aforesaid in respect of the same, or any person claiming under him; provided the person so delivering up any real or personal estate, or paying any debt, shall not have had notice of an action or other proceeding to dispute or annul the petition for sequestration or adjudication thereunder, and such action or other proceeding shall not have been commenced and prosecuted within the time and in manner allowed by this Ordinance.

85. If any assignee indebted to the estate of which he is such assignee in respect of money being part of the estate of the insolvent retained or employed by him, become insolvent and obtain his certificate, it shall have the effect only of freeing his person from arrest and imprisonment, but his future effects (his tools of trade, necessary household goods, and the necessary wearing apparel of himself, his wife, and children excepted) shall remain liable for so much of his debt to the estate of which he was assignee as shall not be paid by dividends under his insolvency, and for interest at the rate of nine per cent. per annum on the whole debt.

Assignee indebted to the estate becoming insolvent, his future property liable.

86. Whenever any assignee shall die or be removed, or a new assignee shall be chosen, no action shall be thereby abated, but the court in which any action is depending may, upon the suggestion of such death or removal and new choice, allow the name of the surviving or new assignee to be substituted in the place of the former, and such action shall be prosecuted in the name or names of the said surviving or new assignee or assignees in the same manner as if he had originally commenced the same.

Suits not to abate by death or removal of assignees.

87. If the assignees commence any action for any money due to the insolvent's estate before the time allowed for the insolvent to dispute the insolvency shall have elapsed, any defendant in any such action shall be entitled, after notice given to the assignees, to pay the same or any part thereof into the court in which such action is brought, and all proceedings with respect to the money so paid into court shall thereupon be stayed until such time shall have elapsed; and if within that time the insolvent shall not have commenced such action or other proceeding as allowed by this Ordinance, and prosecuted the same with due diligence, the money shall be paid out of court to the assignees, but otherwise shall abide the event of such action or other proceeding, and upon such event shall be paid out of court, either to the assignees or the person adjudged insolvent, as the court shall direct; and after such payment of money so made into court it shall not be lawful for the person so adjudged insolvent to proceed against the defendant for recovery of the same money.

In action against a debtor to the estate, in what case he may pay money into court.

88. Every action brought against any person for anything done in pursuance of this Ordinance shall be commenced within three months next after the act committed; and if there be a judgment for the defendant, or if the planitiff shall be nonsuited or discontinue his action after appearance thereto, the defendant shall receive such indemnity as to all costs, charges, and expenses incurred in and about any such action as shall be taxed by the proper officer in that behalf, subject to be reviewed in like manner and by the same authority as any other taxation of costs by such officer.

Limitation of actions.

And with respect to the last examination:

89. The last examination of the insolvent shall be at the second public sitting of the court for the insolvent to surrender and conform, as advertised in the Gazette, and the insolvent shall prepare such balance sheet and accounts, and in such form, as the court shall direct, and shall subscribe such balance sheet

The insolvent to prepare balance sheet and accounts, &c.

and accounts, and file the same in court, and deliver a copy thereof to the assignees ten days at least before the day appointed for the last examination, or the adjournment day thereof for that purpose; and such balance sheet and accounts, before such last examination, may be amended from time to time as occasion shall require and such court shall direct; and the insolvent shall make oath of the truth of such balance sheet and accounts whenever he shall be duly required by the court so to do; and the last examination of the insolvent shall in no case be passed unless his balance sheet shall have been duly filed as aforesaid; and the court may on the application of the assignees or of the insolvent make such allowance out of the estate of the insolvent for the preparation of such balance sheet and accounts, and to such person, as the court shall think fit, in any case in which it shall be made to appear to the satisfaction of the court, from the nature of the accounts or other good cause, that the insolvent required assistance in that behalf.

Insolvents apprehended by warrant.

90. If any insolvent apprehended by any warrant of the court shall, within the time allowed for him to surrender submit to be examined, and in all things conform, he shall have the same benefit as if he had voluntarily surrendered.

Court may adjourn last examination sine die.

91. It shall be lawful for the court, at the time appointed for the last examination of the insolvent, or at any enlargement or adjournment thereof, to adjourn such examination *sine die;* and in such case the insolvent shall be free from arrest or imprisonment for such time (if any) as such court shall from time to time, by endorsement on the summons of the insolvent, think fit to appoint.

If insolvent in custody, court may appoint a person to attend him with books, papers, &c., to enable him to prepare a balance sheet.

92. Whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment, or sentence, the court may appoint a person to attend him from time to time to produce to him his books, papers, and writings, in order that he may prepare his balance sheet, and show the particulars of his estate and effects, previous to his last examination and discovery thereof.

And with respect to the proof of debts and payments in full:

When and how debts may be proved.

93. At the sittings appointed by the court under the thirtieth section of this Ordinance, and at every adjournment thereof, and at every other sitting held for proof of debts, and whereof and of the purport whereof ten days notice shall have been given in the Gazette of this colony, every creditor of the insolvent may prove his debt by his own oath or affidavit; and all bodies politic and public companies incorporated or authorized to sue or bring actions, either by charter, Act of Parliament, or Ordinance, may prove by an agent, provided such agent shall in his deposition swear that he is such agent, and that he is authorized to make such proof: Provided always, that if it shall appear to the court that any clerk, agent, or other person is more fully cognizant of the nature of the debt sought to be proved than the creditor is, the said court shall allow such clerk, agent, or other person to prove such debt by his oath or affidavit; and provided that any creditor who is out of the colony may, in case he have no known agent in the colony capable of proving the alleged debt, make the necessary

affidavit before some person duly qualified to administer oaths in the place where he resides, such person being certified to be so qualified by some sufficient authority in that behalf: Provided also, that it shall be lawful for the court to examine upon oath, either by word of mouth or by interrogatories in writing, every person claiming to prove a debt, or to require such further proof, and to examine such other persons in relation thereto, as such court shall think fit.

Creditor may be examined upon oath.

94. Every person with whom any insolvent shall have really and *bonâ fide* contracted any debt or demand before the filing of the petition for sequestration of his estate, shall, notwithstanding any prior act of insolvency committed by such insolvent, be admitted to prove the same as if no such act of insolvency had been committed; provided such person had not at the time the same was contracted notice of any act of insolvency by such insolvent committed.

Bonâ fide creditors for debts contracted after an act of insolvency may prove.

95. The court, out of the estate and effects of the insolvent, shall order payment of all taxes due by the insolvent at the time of this insolvency up to the end of the current quarter.

Amount of taxes.

96. If any person already appointed or employed, or who may be hereafter appointed to or employed, in any office in the Ceylon savings bank, or in the loan board, or in any friendly society duly incorporated, and being intrusted with the keeping of the accounts, or having in his hands or possession by virtue of his office or employment any monies or effects belonging to such savings bank, loan board, or society, or any deeds or securities relating to the same, shall become insolvent, the court shall, upon application made by the order of any such society, or any committee thereof, or the major part of them assembled at any meeting thereof, order payment and delivery over to be made to such society, or to such person as such society or committee may appoint, of all monies and other things belonging to such society, and shall also order payment out of the estate and effects of the insolvent of all sums of money remaining due which the insolvent received by virtue of his said office or employment, before any other of his debts are paid or satisfied.

If insolvent an officer of friendly society, court to order payment of debt to them before any other debts.

97. When any insolvent shall have been indebted at the time of filing the petition for the sequestration of his estate to any servant, clerk, or superintendent, labourer, cooly, or workman of such insolvent, in respect of the wages or salary of such servant, clerk, or superintendent, labourer, cooly, or workman, it shall be lawful for the court, upon proof thereof, to order so much as shall be so due, not exceeding three months wages or salary, and not exceeding thirty pounds, to be paid to such servant, clerk, or superintendent, labourer, cooly, or workman, out of the estate of such insolvent, and such servant, clerk, or superintendent, labourer, cooly, or workman shall be at liberty to prove for any sum exceeding such amount.

Three months wages or salary to clerks or servants.

98. When any person shall have been an apprentice to an insolvent at the time of the filing of a petition for sequestration of his estate, the filing of such petition shall be and inure as a complete discharge of the indenture whereby such apprentice was

Apprentices discharged from their indentures.

Sum to be paid in respect of apprentice fees.

bound ; and if any sum shall have been really and *bonâ fide* paid by or on the behalf of such apprentice to the insolvent as an apprentice fee, it shall be lawful for the court, upon proof thereof, to order any sum to be paid out of the estate of the said insolvent to or for the use of such apprentice which such court shall think reasonable, regard being had, in estimating such sum, to the amount of the sum so paid by or on behalf of such apprentice, and to the time during which such apprentice shall have resided with the insolvent previous to the filing of such petition.

Mutual debts and credits may be set off.

99. Where there has been mutual credit given by the insolvent and any other person, or where there are mutual debts between the insolvent and any other person, the court shall state the account between them, and one debt or demand may be set against another, notwithstanding any prior act of insolvency committed by such insolvent before the credit given to or the debt contracted by him ; and what shall appear due on either side on the balance of such account, and no more, shall be claimed or paid on either side respectively; and every debt or demand hereby made provable against the estate of the insolvent may also be set off in manner aforesaid against such estate ; provided that the person claiming the benefit of such set-off had not, when such credit was given, notice of an act of insolvency by such insolvent committed.

Debts not payable at the time of the insolvency may be proved.

100. Any person who shall have given credit to the insolvent, upon valuable consideration, for any money or other matter or thing whatsoever which shall not have become payable when such insolvent committed an act of insolvency, and whether such credit shall have been given upon any bill, bond, note, or other negotiable security or not, shall be entitled to prove such debt, bill, bond, note, or other security as if the same was payable presently, and receive dividends equally with the other creditors, deducting only thereout a rebate of interest for what he shall so receive, at the rate of nine pounds per centum per annum, to be computed from the declaration of a dividend to the time such debt would have become payable according to the terms upon which it was contracted.

Proof by sureties.

101. Any person who at the time of filing a petition for sequestration of any estate as insolvent shall be surety or liable for any debt of the insolvent, or bail for the insolvent, if he shall have paid the debt or any part thereof in discharge of the whole debt (although he may have paid the same after the filing of the petition for sequestration of the estate), if the creditor shall have proved his debt under the insolvency, shall be entitled to stand in the place of such creditor as to the dividends and all other rights under the insolvency which such creditor possessed or would be entitled to in respect of such proof; or if the creditor shall not have proved such surety or person liable or bail shall be entitled to prove his demand in respect of such payment as a debt under the insolvency, not disturbing the former dividends, and may receive dividends with the other creditors, although he may have become surety, liable, or bail as aforesaid after an act of insolvency committed by the insolvent ; provided that such

person had not, when he became such surety or bail or so liable as aforesaid, notice of any act of insolvency by such insolvent committed.

102. The obligee in any bottomry or respondentia bond, and the assured in any policy of insurance, made upon good and valuable consideration, shall be admitted to claim, and, after the loss or contingency shall have happened, to prove his debt or demand in respect thereof, and receive dividends with the other creditors as if the loss or contingency had happened before the filing of the petition for sequestration of the estate of such obligee or insurer; and the person effecting any policy of insurance upon ships or goods with any person (as a subscriber or underwriter) having become or becoming insolvent, shall be entitled to prove any loss to which such insolvent shall be liable in respect of such subscription, although the person so effecting such policy was not beneficially interested in such ships or goods, in case the person so interested is not within this colony.

Claim and proof on bottomry or respondentia bonds, and policy of insurance.

103. Any annuity creditor of any insolvent, by whatever assurance the same be secured, and whether there were or not any arrears of such annuity due at the time of the filing the petition for sequestration, shall be entitled to prove for the value of such annuity, which value the court shall ascertain, regard being had to the original price given for such annuity, deducting therefrom such diminution in the value thereof as shall have been caused by the lapse of time since the grant thereof to the date of the filing of such petition.

Proof by annuity creditor.

104. It shall not be lawful for any person entitled to any annuity granted by any insolvent to sue any person who may be collateral surety for the payment of such annuity until such annuitant shall have proved against such insolvent's estate for the value of such annuity, and for the arrears thereof; and if such surety after such proof pay the amount proved, he shall be thereby discharged from all claims in respect of such annuity; and if such surety shall not (before any payment of the annuity subsequent to the filing the petition for sequestration shall have become due) pay the sum so proved, he may be sued for the accruing payments of such annuity until such surety shall have paid or satisfied the amount so proved, with interest thereon, from the time of notice of such proof and of the amount thereof being given to such surety; and after such payment or satisfaction such surety shall stand in the place of such annuitant in respect of such proof to the amount so paid or satisfied by such surety; and the certificate of the insolvent shall be a discharge to him from all claims of such annuitant or of such surety in respect of such annuity; provided that such surety shall be entitled to credit in account with such annuitant for any dividends received by such annuitant under the insolvency before such surety shall have fully paid or satisfied the amount so proved.

Proof by sureties for payment of annuities.

Proviso.

105. If any insolvent shall before the filing of a petition for sequestration of his estate have contracted any debt payable upon a contingency which shall not have happened before the filing of such petition, the person with whom such debt has been contracted

Proof for contingent debt.

may, if he think fit, apply to the court to set a value upon such debt, and the court is hereby required to ascertain the value thereof and to admit such person to prove the amount so ascertained and to receive dividends thereon; or if such value shall not be ascertained before the contingency shall have happened, then such person may, after such contingency shall have happened, prove in respect of such debt and receive dividends with the other creditors, not disturbing any former dividends; provided such person had not when such debt was contracted notice of any act of insolvency by such insolvent committed.

Claim and proof for contingent liability.

106. If any person who shall be adjudged insolvent after the commencement of this Ordinance shall have contracted before the filing of a petition for sequestration of his estate a liability to pay money upon a contingency which shall not have happened, and the demand in respect whereof shall not have been ascertained before the filing of such petition, in every such case, if such liability be not provable under any other provision of this Ordinance, the person with whom such liability has been contracted shall be admitted to claim for such sum as the court shall think fit; and after the contingency shall have happened, and the demand in respect of such liability shall have been ascertained, he shall be admitted to prove such demand and receive dividends with the other creditors, and, so far as is practicable, as if the contingency had happened and the demands had been ascertained before the filing of such petition, but not disturbing former dividends; provided such person had not at the time such liability was contracted notice of any act of insolvency by such insolvent committed; provided also, that where any such claim shall not have, either in whole or in part, been converted into a proof within six months after the filing of such petition, it may, upon the application of the assignees at any time after the expiration of such time, and if the court shall think fit, be expunged either in whole or in part from the proceedings.

Proviso.

Proof for interest.

107. Upon all debts or sums certain, payable at a certain time or otherwise, whereupon interest is not reserved or agreed for, and which shall be overdue at the filing of the petition for sequestration and provable thereunder, the creditor shall be entitled to prove for interest, to be calculated at a rate not exceeding nine pounds per centum per annum, up to the date of the filing of such petition from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment.

Plaintiff or defendant obtaining judgment, &c. entitled to prove for costs, &c.

108. If any plaintiff in any action or petitioner for the sequestration of the estate of any person as insolvent shall have obtained any judgment, decree, or order against any person who shall thereafter become insolvent for any debt or demand in respect of which such plaintiff or petitioner shall prove under the insolvency, such plaintiff or petitioner shall also be entitled to prove for the costs which he shall have incurred in obtaining the same, although such

costs shall not have been taxed at the time of the insolvency; and if any defendant shall have obtained any judgment, decree, or order in any such action or in the matter of any such petition against any person who shall thereafter become insolvent, such defendant shall be entitled to prove for the costs which he shall have incurred in obtaining the same, although such costs shall not have been taxed at the time of the insolvency.

109. No creditor who has brought any action against any insolvent in respect of a demand prior to the filing of a petition for sequestration, or which might have been proved as a debt under the insolvency, shall prove a debt under such insolvency, or have any claim entered upon the proceedings, without relinquishing such action; and the proving or claiming a debt under a petition for sequestration by any creditor shall be deemed an election by such creditor to take the benefit of such petition with respect to the debt so proved or claimed: Provided that such creditor shall not be liable to the payment to such insolvent or his assignees of the cost of such action so relinquished by him, and that where any such creditor shall have brought any action against such insolvent jointly with any other person, his relinquishing such action against the insolvent shall not affect such action against such other person; provided also, that any creditor who shall have so proved or claimed, if the petition for sequestration be afterwards dismissed, may proceed in the action as if he had not so proved or claimed.

Proving debt to be an election not to proceed against the insolvent's action.

Proviso.

110. Whenever it shall appear to the assignees, or to two or more creditors who have each proved debts to the amount of twenty pounds or upwards, that any debt proved is not justly due, either in whole or in part, such assignees or creditors may make representation thereof to the court; and it shall be lawful for the court to summon and examine upon oath any person who shall have so proved, together with any person whose evidence may appear to the court to be material, either in support of or in opposition to any such debt; and if the court, upon the evidence given on both sides, or (if the person who shall have proved shall not attend to be examined, having been first duly summoned, or notice having been left at his last place of abode) upon the evidence adduced by such assignees or creditors, shall be of opinion that such debt is not due, either wholly or in part, the court shall be at liberty to expunge the same, either wholly or in part, from the proceedings: Provided, that such assignees or creditors requiring such investigation shall, before it is instituted, sign an undertaking, to be filed with the proceedings, to pay such costs as the court shall adjudge to the creditor who has proved such debt, such costs to be recovered by application to the court, upon which an order for payment thereof may be made by the court.

Complaint of debts being proved which are not due; investigation, at whose instance, and how.

Undertaking for costs.

111. No creditor having security for his debt, or having made any attachment of the goods and effects of the insolvent, shall receive upon any such security or attachment more than a rateable part of such debt, except in respect of any execution served and levied by seizure and sale upon or any mortgage of or lien upon any part of the property of such insolvent before the date of the

Creditor having security not to receive more than other creditors.

Proviso.

filing of a petition for sequestration of his estate: Provided always, that nothing herein contained shall be deemed to give validity to any power of attorney to confess judgment or consent to a judgment declared to be null and void by any provision of this Ordinance, nor to give validity to any judgment entered up under or by virtue of any such power of attorney or consent, or to any execution executed or levied under or by virtue of any such power of attorney or consent.

Accounts of assignees.

112. The assignees shall keep an account wherein they shall enter all property of the insolvent received by them and all payments made by them on account of the insolvent's estate, which account every creditor who shall have proved may inspect at all reasonable times; and it shall and may be lawful for the court, whenever it shall think fit, to summon the assignees to produce the said book, and the said court may examine and inspect the same or appoint some qualified person so to do.

And with respect to the audit, and to the money belonging to the insolvent estate:

Audit.

113. The district court shall, whenever it shall think fit, appoint a public sitting to be holden after the sitting appointed for the last examination of the insolvent (of which public sitting and of the purport whereof ten days notice shall be given in the Gazette of this colony) to audit the accounts of the assignees; and at such sitting the assignees shall deliver upon oath a true statement in writing of all money received by them respectively, and when, and on what account, and how the same has been employed; and the court shall examine such statement, and compare the receipts with the payments, and ascertain what balances have been from time to time in the hands of such assignees respectively; and it shall be lawful for the court to examine the assignees upon oath touching the truth of such accounts, and to make therein all just allowances.

Remuneration to assignees.

114. The district court may order and allow to be paid out of the assets of any insolvent estate to the assignees appointed by the court or chosen by the creditors, as a remuneration for their services, such sum as shall, upon consideration of the amount of the said estate and the nature of the duties performed by such assignees, appear to be just and reasonable.

Creditors to choose a bank with which assignees shall open an account and lodge the money of the estate.

115. It shall be lawful for and shall be the duty of the creditors of any insolvent estate, at the meeting held for the choice of assignees, immediately after such election, in case such election shall take place at such meeting, and in case such election shall not then take place, then immediately after the votes of the said creditors in regard to such election shall have been given, to nominate and appoint some bank within this colony, with which bank it shall be the duty of the assignees to open an account, and in case of a difference of opinion amongst the said creditors assembled at such meeting, the greater part in value of the said creditors shall determine upon the bank to be so nominated and appointed as aforesaid, and from and after any such nomination and appointment of any such bank the assignees of such insolvent estate,

whether chosen by the creditors or provisionally appointed, shall, as soon as they shall receive any sum of money exceeding ten pounds belonging to such estate, open an account with such bank in the name of the insolvent estate, and such sum and every other sum exceeding ten pounds so received by them shall with all convenient speed be paid into such bank, to be placed to the credit of such account, and all cheques or orders for the payment of any such money out of the said bank shall truly express the cause of such payment and the name of the person in whose favour it is drawn, and shall be signed by all the assignees, or by one of them for himself and co-assignees; provided that in case the creditors of any insolvent estate shall neglect to nominate any such bank it shall be lawful for the assignees to open an account with and pay all such monies into any such bank in this colony as they shall select: And provided that every provisional assignee appointed under this Ordinance before the meeting of creditors for the choice of assignees shall, pending such meeting, open an account with and pay all such monies into any such bank in this colony as he shall select; and provided that all assignees, whether provisional or elected, shall in regard to the bank with which such account shall be kept, and such monies lodged, pursue such directions as they shall, from time to time, receive from any general meeting of the creditors of the insolvent estate: Provided that if there shall be no bank at the place where the assignees reside, any sum of money received by them exceeding ten pounds belonging to such estate shall forthwith be paid into the district court.

Penalty upon assignee retaining or employing money belonging to the estate.

116. Any assignee who shall retain in his hands, or knowingly permit any co-assignee so to retain, any sum of money exceeding ten pounds sterling part of any insolvent estate longer than until the first day after his receiving the same upon which it shall be possible for him to pay the said sum, or cause it to be paid, into some such bank or into the district court as aforesaid, and who shall not have any just and lawful cause for so retaining the same, or shall employ for his own benefit, or knowingly permit any co-assignee so to employ, any sum of money part of any insolvent estate, shall forfeit and pay, for the benefit of the said estate, double the amount of the sum so retained or employed; and the said sum so forfeited shall be deducted out of any claim the said assignee may have against the said estate, and the surplus, if any, shall be recovered by action at the suit of any two or more creditors in any competent court.

And with respect to the dividend:

Method of making dividends.

117. The district court shall, whenever it shall think fit, appoint a public sitting to be holden after the sitting appointed for the last examination of the insolvent, when there are assets wherewith a dividend may be made (of which public sitting and of the purport whereof twenty-one days notice shall be given in the Gazette of this colony), to make a dividend of the insolvent's estate, and shall at such sitting direct such part of the net produce of the insolvent's estate as it may think fit to be forthwith divided amongst such creditors as have proved debts under the insolvency in proportion to their respective debts, and shall make an order in

writing under the hand of the district judge for dividend accordingly, to be filed with the proceedings, which order shall contain an account of the amount of the debts proved, of the money to be divided, of how much in the pound is then ordered to be paid to the creditors, and of the money allowed by the court to be retained, and of the reason for retaining the same; and the assignees, in pursuance of such order, shall forthwith make such dividend in manner directed by the rules at any time in force under this Ordinance relating to the mode of payment of dividends by the assignees, but no dividend shall be declared unless the accounts of the assignees shall have been first audited.

No dividend without previous audit.

Final dividend within 18 months, except where suit depending or estate standing out, &c.

118. If the insolvent's estate shall not have been wholly divided upon the first dividend the court shall, within eighteen months after the filing of the petition for sequestration of the estate, appoint a public sitting (whereof and of the purport whereof twenty-one days notice shall be given in the Gazette of this colony) to make a second dividend, when all the creditors who have not proved their debts may prove the same, and at such sitting, but after such an audit as is directed by this Ordinance, shall order the balance in hand to be forthwith divided among such of the creditors as shall have proved their debts; and such second dividend shall be final, unless any action be depending, or any part of the estate be standing out not sold or disposed of, or unless some other estate or effects of the insolvent shall afterwards come to the assignees, in which case they shall as soon as may be convert such estate and effects into money; and within two months after the same shall be so converted the same shall also be divided in manner aforesaid; and if at the expiration of two years from the filing of any petition for sequestration there shall remain any outstanding debts or other property due or belonging to the estate of the insolvent which cannot in the opinion of the court be collected and received without unreasonable or inconvenient delay, it shall be lawful for the assignees, under the direction of the court, to sell and assign such debts and other property, and also the books of the insolvent relating to his trade, dealings, or estate, in such manner and subject to such conditions as shall be ordered by the court; and any person to whom any of such debts shall be so sold or assigned may sue for the same in his own name as fully as the assignees of such insolvent might have done.

Outstanding debts, &c. may be sold, and the purchaser may sue for them.

Remedy for dividend.

119. No action for any dividend shall be brought against any assignee by any creditor who shall have proved under the insolvency; but if the assignees shall refuse to pay any such dividend the court may order payment thereof, with interest for the time that it shall have been withheld, and may also order the costs of the application, and such order shall have the effect of a judgment by the said court.

And with respect to the unclaimed dividends:

Unclaimed dividends, &c., to be paid into the treasury.

120. All unclaimed dividends, and also any undivided surplus of an insolvent's estate over and above the amount finally directed to be divided amongst the creditors of any insolvent, shall be paid into the treasury, to be carried in the books of the treasury to the account intituled "the unclaimed dividend account," sub-

ject to the order of the district court, acting in prosecution of any insolvency, for the payment thereout of any dividend due to any creditor.

How unclaimed dividends, &c. in the hands of assignees to be disposed of.

121. Subject to any rule at any time in force under this Ordinance relating to unclaimed dividends, if any assignee under any insolvency shall have, either in his own hands or at any bank, or otherwise subject to his order or disposition, or shall know that there is in the hands or subject to the order and disposition of himself and any co-assignee, or of either of them, any unclaimed dividend or any such undivided surplus as aforesaid, such assignee shall, within three months next after the expiration of one year from the time of the declaration and order of payment of such dividend, either pay the same to the creditor or other the person entitled to the same or cause a certificate thereof to be filed in the district court, containing a full and true account of the name of the creditor to whom such unclaimed dividend is due, and of the amount of such dividend, and shall in like manner as to any undivided surplus as aforesaid, within three months next after the expiration of one year after the final declaration of dividends, cause a certificate stating the full and true amount of such surplus to be filed in the district court, and every certificate to be filed as aforesaid shall be signed by the assignees filing the same, and every assignee shall, within one year next after the filing of any such certificate as aforesaid, pay or cause to be paid into the treasury, to be carried to the account entitled "the unclaimed dividend account," the full amount of the unclaimed dividends mentioned in such certificate, or so much thereof as shall not have been then paid to the creditors or other persons entitled thereto, and also the full amount of such undivided surplus as aforesaid: Provided always, that no certificate of any unclaimed dividend shall be filed until the expiration of one year after the declaration and order for payment of such dividends.

Proviso.

And with respect to allowances to the insolvent:

Allowance to insolvent for maintenance.

122. It shall be lawful for the district court, if it think fit, from time to time to make such allowance to the insolvent out of his estate, until he shall have passed his last examination, as shall be necessary for the support of himself and his family: Provided always, that no such allowance shall be made by the court for any period after the adjournment of the last examination *sine die.*

If estate pay 20*s.* in the pound and interest, surplus to be paid to insolvent.

123. If the produce of the estate of any insolvent shall be sufficient to pay twenty shillings in the pound, and interest as herein-after mentioned, and to leave a surplus, the court may order such surplus to be paid to such insolvent, his executors, administrators, or assigns; and every such insolvent shall be entitled to recover the remainder, if any of the debts due to him; but such surplus shall not be paid until all the creditors who have proved shall have received the interest due upon their debts.

And with respect to the certificate of conformity:

Mode of obtaining certificate.

124. Forthwith after the insolvent shall have passed his last examination the district court shall appoint a public sitting

for the allowance of his certificate (whereof and of the purport whereof twenty-one days notice shall be given in the Gazette of this colony and to the assignees), and at such sitting the assignees or any of the creditors of such insolvent who shall have given to the secretary of the court three clear days notice in writing of his intention to oppose, may be heard against the allowance of such certificate, and the court having regard to the conformity of the insolvent to this Ordinance, and to his conduct as a trader, or in relation to his estate, before as well as after his insolvency, and whether the allowance of such certificate be opposed by any creditor or not, shall judge of any objection against allowing such certificate, and either find the insolvent entitled thereto, and allow the same, or refuse or suspend the allowance thereof, or annex such conditions thereto, as the justice of the case may required.

Form of it.

125. The certificate of conformity under this Ordinance shall be in writing under the hand of the district judge, and shall certify that the insolvent has made a full discovery of his estate and effects and in all things conformed, and that so far as the court can judge there does not appear any reason to question the truth or fulness of such discovery (and shall be in the form Q. in the schedule to this Ordinance annexed, or to the like effect); and notice of the allowance of such certificate and of the class thereof shall be advertised in the Gazette of this colony in such manner as may be directed by the court.

It discharges insolvent from all debts provable.

126. The certificate of conformity allowed under this Ordinance, subject to the provisions herein contained, shall discharge the insolvent from all debts due by him when he became insolvent, and from all claims and demands made provable under the insolvency: Provided always, that no such certificate shall release or discharge any person who was a partner with such insolvent at the time of his insolvency, or was then jointly bound or had made any joint contract with such insolvent, or who was a surety for him.

Certificate not granted or void if insolvent has concealed or falsified books, &c.,

or concealed any property, or permitted any fictitious debts to be proved.

127. No insolvent shall be entitled to a certificate of conformity under this Ordinance, and any such certificate if allowed shall be void, if such insolvent shall, after an act of insolvency, or in contemplation of insolvency, or with intent to defeat the object of this Ordinance, have parted with, concealed, destroyed, altered, mutilated, or falsified, or caused to be concealed, destroyed, altered, mutilated, or falsified, any of his books, papers, writings, or securities, or made or been privy to the making of any false or fraudulent entry in any book of accounts or other document with intent to defraud his creditors, or shall have concealed any part of his property, or if any person having proved a false debt under the insolvency, such insolvent being privy thereto, or afterwards knowing the same, shall not have disclosed the same to his assignees within one month after such knowledge.

Contract or security to induce creditor to

128. Any contract or security made or given by any insolvent or other person unto or in trust for any creditor for securing the payment of any money due by such insolvent at his insolvency,

as a consideration or with intent to persuade such creditor to forbear opposing, or to consent to the allowance of the insolvent's certificate, or to forbear to petition for the recall of the same, shall be void, and the money thereby secured or agreed to be paid shall not be recoverable.

forbear opposition void.

129. At any time within six months after any certificate of conformity shall have been allowed, and subject to such order as to deposit of costs as may be made by the Supreme Court, any creditor of the insolvent, or any assignee, may apply to the Supreme Court that such certificate may be recalled and delivered up to be cancelled; and the Supreme Court may, on good cause shown, order such certificate to be recalled and cancelled.

Certificate may be recalled.

130. No insolvent after his certificate shall have been allowed shall be liable to pay or satisfy any debt, claim, or demand from which he shall have been discharged by virtue of such certificate, or any part of such debt, claim, or demand upon any contract, promise, or agreement made after the filing of the petition for sequestration of his estate.

Insolvent not liable upon any promise to pay debt discharged by certificate.

131. Any insolvent who shall after his certificate shall have been allowed be arrested or have any action brought against him for any debt, claim, or demand provable under his insolvency, shall be discharged upon entering an appearance, and may plead in general that the cause of action accrued before he became insolvent, and may give this Ordinance and the special matter in evidence; and such insolvent's certificate shall be sufficient evidence of the insolvency, petition for sequestration, and other proceedings precedent to the obtaining such certificate; and if any such insolvent shall be taken in execution or detained in prison for such debt, claim, or demand where judgment has been obtained before the allowance of his certificate, it shall be lawful for any judge of the court wherein judgment has been so obtained, on such insolvent's producing his certificate, to order any officer who shall have such insolvent in custody by virtue of such execution, to discharge such insolvent, and such officer shall be hereby indemnified for so doing.

Insolvent, having obtained his certificate, free from arrest; may plead his certificate; evidence under it.

Insolvent, if in execution, discharged.

132. No such certificate shall be delivered to the insolvent until after the expiration of the time allowed for entering an appeal; and if an appeal be duly entered against the judgment of such court for the allowance of the certificate, or for the refusal, the withholding, or the class of the certificate, and notice thereof be given to the court in such manner as may by any general rule or order to be made in pursuance of this Ordinance be directed, the certificate shall be further kept by the court, and abide the judgment of the Supreme Court thereupon; and upon any appeal duly entered and prosecuted relating to the certificate or to the judgment of the court as to any offence under this Ordinance charged against the insolvent, the Supreme Court shall have power to rescind or vary the order of the district court, or to make such other order thereon as it may think fit; and upon an order for the allowance of any certificate by the Supreme Court, and whether with conditions or not, or after a suspension thereof by order of the Supreme Court or not, such certificate may be allowed and signed by the district judge or by a judge of the Supreme Court.

Appeal against allowance or refusal of certificate.

Allowance, refusal, or suspension of certificate (except in case of appeal) to be final in what cases.

133. The allowance of the certificate by the district court, and any order for the refusal or suspension of the allowance thereof (except in case of appeal), shall be final and conclusive, and shall not be revised by the district court unless the said court shall thereafter see good and sufficient cause to believe that the allowance of such certificate, or the refusal or suspension thereof, has been obtained on false evidence, or by reason of an improper suppression of evidence, or has otherwise been fraudulently obtained, in any of which cases it shall and may be lawful for the district court, upon the application of the insolvent, or of any creditor of the insolvent, and subject to such order as to deposit of a sum for costs, and to such notices to the insolvent and to creditors by advertisement or otherwise as the court shall think fit, to grant a re-hearing of the matter, and to re-hear the same accordingly, and upon such re-hearing the district court shall make such order as to the allowance of the certificate, or the refusal or suspension thereof, as the justice of the case may require, in like manner, upon like conditions, and having regard to the like circumstances, so far as the case will admit, as upon any original hearing ; and in case the certificate shall have been previously allowed, and upon such re-hearing the allowance thereof shall not be confirmed, such certificate shall have no force or effect whatever, and the same shall be delivered up to the court and cancelled.

And with respect to arrangements by deed:

Deeds of arrangement entered into between any debtor and certain of his creditors, in what cases binding on all.

134. Every deed or memorandum of arrangement now or hereafter entered into between any person and his creditors, and signed by or on behalf of six sevenths in number and value of those creditors whose debts amount to ten pounds and upwards, touching such person's liabilities and his release therefrom, and the distribution, inspection, conduct, management, and mode of winding up of his estate, or all or any of such matters or any matters having reference thereto, shall (subject to the conditions herein-after mentioned) be as effectual and obligatory in all respects upon all the creditors who shall not have signed such deed or memorandum of arrangement as if they had duly signed the same ; and such deed or memorandum, when so signed, shall not be or be liable to be disturbed or impeached by reason of any prior or subsequent act of insolvency : Provided always, that every creditor shall be accounted a creditor in value in respect of such amount only as upon an account fairly stated, after allowing the value of mortgaged property and other such available securities or liens from such person, shall appear to be the balance due to him.

Proviso.

When deed not to be effectual against creditor who has not signed.

135. No such deed or memorandum of arrangement shall be effectual or obligatory upon any creditor who shall not have signed the same until after the expiration of three months from the time at which such creditor shall have had notice from such person of his suspension of payment, and of such deed or memorandum of arrangement, unless such debtor shall within such time obtain from the district court an order or certificate of the said court declaring or certifying that such deed or memorandum of arrangement has been duly signed by or on behalf of such majority of

the creditors as aforesaid; and it shall be lawful for the district court of the district in which the person shall have resided or carried on business for six months next immediately preceding his suspension of payment to make such order or certificate on the petition of any such person, and to exercise jurisdiction in and over the matters of any such application; and no creditor who shall not have had fourteen days notice of any intended application for such order or certificate as aforesaid shall be bound thereby.

Trustee or inspector, &c. to certify as to the deed being signed.

136. When the trustee or inspector under any such deed or memorandum of arrangement, or, if there shall be no such trustee or inspector, when any two of the creditors shall be satisfied that six sevenths in number and value of the creditors whose debts amount to ten pounds and upwards have signed such deed or memorandum, it shall be lawful for such trustee or inspector, or for such two creditors, as the case may be, to certify the same to the district court in writing, and such certificate shall be filed in court, and shall thereupon be *primâ facie* evidence in all courts that such deed or memorandum of arrangement has been so signed.

Account of debt, &c. to be annexed to such certificate.

137. Every such certificate as last aforesaid shall have appended thereto a full account of the debts of such debtor, together with the names, residences, and occupations of his creditors, and shall be accompanied by an affidavit by such debtor verifying the same; and any omission in such account, or the insertion therein of any debt not really existing, or of any larger amount of debt than that really existing, and which shall appear to the court to have been made through the culpable negligence or fraud of such debtor, with intent to defraud any of his creditors, shall deprive him of the benefit of the provisions of this Ordinance with respect to arrangements by deed, and of the discharge proposed in any such deed or memorandum of arrangement: Provided always, that any omission, insertion, or incorrectness in such account which shall not have been made through such culpable negligence or fraud as aforesaid, shall not defeat or otherwise affect such deed or memorandum of arrangement.

Proviso.

Rights of creditors.

138. The creditors of every such debtor shall have the same rights respectively as to set-off, mutual credit, lien, and priority, and joint and separate assets shall be distributed in like manner as in insolvency, and no creditor shall be prejudiced or affected by being a party to any such deed or memorandum of arrangement as aforesaid, or by the same being obligatory upon him as to his right or remedy against any person other than such debtor; and every person who would be entitled to prove in insolvency shall be deemed a creditor within the meaning of the provisions of this Ordinance with respect to arrangements by deed.

Court may interfere in case of improper administration of the estate.

139. If any creditor of any person shall be desirous to show that the administration of the estate of such person has not been duly conducted in conformity with such deed or memorandum of arrangement, it shall be lawful for him to apply to the district court by petition, supported by affidavit, stating any facts or circumstances to show that such administration has not been duly conducted, and thereupon the court shall have full power and it

is hereby fully authorized to consider the subject matter of such application, and if it shall think fit may direct any inquiry, and in such manner as it shall think proper, into the subject of such application, and generally may make such order and exercise such jurisdiction in or over the subject matter of such application and the costs thereof as to the said court shall appear just.

And with respect to composition after adjudication of insolvency:

If after adjudication certain of the creditors accept composition it shall bind the rest.

140. Any insolvent, at any time after he shall have passed his last examination, may call a meeting of his creditors (whereof and of the purport whereof twenty-one days notice shall be given in the Government Gazette), and if the insolvent or his friend shall make an offer of composition and nine tenths in number and value of the creditors assembled at such meeting shall agree to accept the same, another meeting for the purpose of deciding upon such offer shall be appointed to be holden, whereof such notice shall be given as aforesaid; and if at such second meeting nine tenths in number and value of the creditors then present shall also agree to accept such offer, the district court shall and may, upon such acceptance being testified by them in writing, and upon payment of such sum as the court shall direct, annul the adjudication of insolvency and supersede or dismiss the petition for sequestration; and every creditor of such insolvent shall be bound to accept of such composition so agreed to.

Mode of voting in deciding upon such composition.

141. In deciding upon the offer of composition no creditor whose debt is below twenty pounds shall be reckoned in number, but the debt due to such creditor shall be computed in value; and every creditor to the amount of fifty pounds and upwards residing out of Ceylon shall be personally served with a copy of the notice of the meeting to decide upon such offer as aforesaid, and of the purpose for which the same is called, so long before such meeting as that he may have time to vote thereat, and such creditor shall be entitled to vote by letter of attorney executed and attested in manner required for a creditor's voting in the choice of assignees; and if any creditor shall agree to accept any gratuity or higher composition for assenting to such offer he shall forfeit the debt due to him, together with such gratuity or composition; and the insolvent shall (if thereto required) make oath before the court that there has been no such transaction between him or any person with his privity and any of the creditors, and that he has not used any undue means or influence with any of them to attain such assent.

And with respect to evidence:

Officer of court to produce proceedings and give copies thereof.

142. The proper officer of the district court shall, on the reasonable request of any insolvent, or of any creditor of such insolvent (having proved his debt), or on the like request of the proctor of any such insolvent or creditor, produce and show to such insolvent, creditor, or proctor at such times as the court shall direct every petition for sequestration and adjudication of insolvency against or by such insolvent, and all orders and proceedings

under any such petition or adjudication ; and the court shall order the assignees or officer of court, as the case may be, to permit such insolvent, creditor, or proctor to have inspection at all reasonable times of all books, papers, and writings relating to the matters of such petition or adjudication, and the estate of the insolvent in the possession of the assignees or filed in court in such matter, and permit him to inspect and examine the same; and such assignees or such officer shall provide for any such insolvent, creditor, or proctor requiring the same a copy of such petition or other proceeding, books, papers, and writings as aforesaid, or of such part thereof as shall be required, receiving such fee, or sum, or rate of charge as may be authorized by the court in that behalf.

If insolvent do not dispute the insolvency, Gazette to be evidence of the adjudication and petition, as against insolvent, and in suits or debts, &c. by assignees.

143. If the insolvent shall not (if he were within this colony at the date of the adjudication) within twenty-one days after the advertisement of the insolvency in the Government Gazette, or (if he were in any part of the East India Company's territories at the date of the adjudication) within three months after such advertisement, or (if he were elsewhere at the date of the adjudication) within twelve months after such advertisement, have commenced an action or other proceeding to dispute or annul the petition for sequestration of his estate as insolvent, and shall not have prosecuted the same with due diligence and effect, the Gazette containing such advertisement shall be conclusive evidence in all cases as against such insolvent, and in all actions brought by the assignees for any debt or demand for which such insolvent might have sustained any action had he not been adjudged insolvent, that such person so adjudged insolvent became an insolvent before the date and filing of the petition for sequestration, and that such petition was filed on the day on which the same is stated in the Gazette to bear date.

In other cases no proof of petitioning creditor's debt or act of insolvency, unless notice to dispute them.

144. In any action (other than an action brought by the assignees for any debt or demand for which the insolvent might have sustained an action had he not been adjudged insolvent), and whether at the suit of or against the assignees or against any person acting under the warrant of the court, for anything done under such warrant, no proof shall be required at the trial of the petitioning creditor's debt or of the act of insolvency respectively, unless the other party in such action shall, if defendant at or before answering, and if plaintiff before issue joined, give notice in writing to such assignees or other person that he intends to dispute one or both, and which of such matters ; and in case such notice shall have been given, if such assignees or other person shall prove the matter so disputed, or the other party admit the same, the judge before whom the cause shall be tried may (if he think fit) grant a certificate of such proof or admission ; and such assignees or other person shall be entitled to the costs occasioned by such notice, and such costs shall, if such assignees or other person shall obtain a judgment, be added to the costs, and if the other party shall obtain a judgment, shall be deducted from the costs which such other party would otherwise be entitled to receive from such assignees or other person.

Court may award costs, and how recovered.

145. The court may in all matters before it award such costs as to such court shall seem fit and just; and in all cases in which costs shall be so awarded against any person it shall and may be lawful for such court to cause such costs to be recovered from such person in the same manner as costs awarded by such court in civil suits may be recovered.

Witnesses and persons known or suspected to have insolvent's property, &c., when entitled to costs.

146. Every person summoned to attend before the court as a person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, shall have such costs and charges as the court in its discretion shall think fit, and every witness summoned to attend before the court shall have his necessary expenses tendered to him in like manner as is now by law required upon service of subpœna to a witness in a civil action.

And with respect to offences against the law relating to insolvency and other matters in this Ordinance:

Insolvent not surrendering,

147. If any person adjudged insolvent shall not upon the day limited for his surrender, and before three of the clock of such day, or at the hour and upon the day allowed him for finishing his examination, after notice thereof in writing, to be served upon him personally or left at the usual or last known place of abode or business of such person, or personal notice in case such person be then in prison, and notice given in the Government Gazette of the filing of the petition for sequestration of his estate as insolvent, as the case may be, and of the sittings of the court (having no lawful impediment proved to the satisfaction of the court at such time, and allowed by the court by a memorandum thereof then made on the proceedings) surrender himself to such court and sign or subscribe such surrender, and submit to be examined before such court from time to time; or if any such insolvent upon such examination shall not discover all his real and personal estate, and how and to whom, upon what consideration, and when he disposed of, assigned, or transferred any of such estate (and all books, papers, and writings relating thereunto), except such part as shall have been really and *bonâ fide* before sold or disposed of in the way of his trade or laid out in the ordinary expenses of his family; or if any such insolvent upon such examination shall not deliver up to such court all such parts of such estate, and all books, papers, and writings relating thereunto, as shall be in his possession, custody, or power (except the necessary wearing apparel of himself, his wife, and children), or if any such insolvent shall remove, conceal, or embezzle any part of such estate to the value of ten pounds or upwards, or any books of accounts, papers, or writings relating thereto, with intent to defraud his creditors, every such insolvent shall be liable to transportation for life, or for such term not less than seven years as the Supreme Court shall adjudge, or shall be liable to imprisonment, with or without hard labour, for any term not exceeding seven years.

not discovering his property,

not delivering his books, &c.,

removing, concealing, or embezzling property, books, &c.

Punishment.

Insolvent destroying or

148. If any insolvent shall, after an act of insolvency committed, or in contemplation of insolvency, or with intent to defeat

the object of the law relating to insolvents, destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, every such insolvent shall, on conviction, be liable to imprisonment, with or without hard labour, for any term not exceeding three years.

falsifying books, &c.

Punishment.

149. If any insolvent shall within three months next preceding the date of the filing of the petition for sequestration of his estate, under the false colour and pretence of carrying on business and dealing in the ordinary course of trade, obtain on credit from any other person any goods or property with intent to defraud the owner thereof; or if any insolvent shall, within such time and with such intent, remove, conceal, or dispose of any goods or property so obtained, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding two years.

Insolvent obtaining goods on credit under false pretences,

or removing or concealing goods so obtained.

Punishment.

150. Any insolvent or insolvent's wife who shall upon any examination directed or authorized by this Ordinance and any person who shall upon any examination or in any affidavit or deposition so authorized or directed, or in any affidavit or deposition wilfully and corruptly give false evidence, or wilfully and corruptly swear anything which shall be false, being convicted thereof, shall be liable to the penalties of wilful and corrupt perjury.

False evidence.

Perjury.

151. If at the sitting appointed for the last examination of any insolvent, or at any adjournment thereof, it shall appear to the district court that the insolvent has committed any of the offences herein-after enumerated, the court shall refuse to grant the insolvent any further protection from arrest, and if at any sitting or adjourned sitting for the allowance of the certificate of any insolvent it shall appear that he has committed any of such offences, the court shall refuse to grant such certificate, or shall suspend the same for such time as it shall think fit, and shall in like manner refuse to grant the insolvent any further protection.

If at last examination it appears that insolvent has been guilty of any of the following offences, further protection refused; certificate refused or suspended.

Offences referred to:

First. If the insolvent shall at any time after the filing of the petition for sequestration of his estate, or within two months next preceding the filing of such petition, with intent to conceal the state of his affairs or to defeat the objects of the law of insolvency, have destroyed any book, paper, deed, writing, or other document relating to his trade, dealings, or estate.

Second. If the insolvent shall, with the like intent, have kept or caused to be kept false books, or have made false entries in, or withheld entries from, or wilfully altered or falsified any book, paper, deed, writing, or other document relating to his trade, dealings, or estate.

Third. If the insolvent shall have contracted any of his debts by any manner of fraud or by means of false pretences, or shall by any manner of fraud or by means of false pretences have obtained the forbearance of any of his debts by any of his creditors.

Fourth. If the insolvent shall at any time within two months next preceding the filing of the petition for sequestration of his estate, fraudulently, in contemplation of insolvency, and not under pressure from any of his creditors, with intent to diminish the sum to be divided among his creditors, or to give an undue preference to any of his creditors, have paid or satisfied any such creditor wholly or in part, or have made away with, mortgaged, or charged any part of his property, of what kind soever.

Fifth. If the insolvent shall at any time after the filing of the petition for sequestration of his estate, and with intent to diminish the sum to be divided among his creditors, or to give an undue preference to any of his creditors, have concealed from the district court or his assignees any debt due to or from him, or have concealed or made away with any part of his property of what kind soever.

Sixth. If the insolvent shall under his insolvency, or at any meeting of his creditors, within three months next preceding the filing of the petition for sequestration of his estate, have attempted to account for any of his property by fictitious losses or expenses.

Seventh. If the insolvent shall, within six months next preceding the filing of the petition for sequestration of his estate, have put any of his creditors to any unnecessary expense by any vexatious and frivolous defence or delay to any action for the recovery of any debt or demand provable under his insolvency, or shall be indebted in costs incurred in any action so vexatiously brought or defended.

Eighth. If the insolvent shall, at any time after the filing of the petition for sequestration of his estate, have wilfully prevented or withheld the production of any book, paper, deed, writing, or other document relating to his trade, dealings, or estate.

Ninth. If the insolvent (being a trader) shall during his trading have wilfully, and with intent to conceal the true state of his affairs, have omitted to keep proper accounts, or shall wilfully and with intent to conceal the true state of his affairs have kept his accounts imperfectly, carelessly, and negligently.

On refusal of certificate or protection, the court may grant assignees or creditor a certificate on which they may sue out execution against the insolvent.

152. The assignees for the time being of the estate and effects of any insolvent, when the accounts relating to his estate shall have become records of the court, shall be deemed judgment creditors of such insolvent for the total amount of the debt which shall by such accounts appear to be due from him to his creditors; and every creditor of any insolvent, immediately after the proof of his debt shall have been admitted, shall be deemed a judgment creditor of such insolvent to the extent of such proof; and the court, when it shall have refused to grant the insolvent any further protection, or shall have refused or suspended his certificate, shall on the application of such assignees or of any such creditor, grant a certificate in the form R. in the schedule to this Ordinance annexed, and every such certificate shall have the effect of a judgment entered up in the said court, until the allowance of the certificate of conformity of such insolvent; and the assignees,

or the creditor, to whom, according to such certificate, the insolvent shall be indebted as therein mentioned, shall be thereupon entitled to issue and enforce a writ of execution against the body of such insolvent; and the production of any such certificate to the secretary of such court shall be sufficient authority to him to issue such writ: Provided always, that every such last-mentioned certificate shall be deemed to have been cancelled and discharged by the allowance of the certificate of conformity of such insolvent, from the time of such allowance; provided also, that no execution by virtue of any certificate which shall be granted to any creditor or assignees as aforesaid shall be issued, nor shall any such certificate or execution in any manner affect any estate or effects which shall come to or be acquired by the insolvent, after the allowance of his certificate of conformity.

Proviso.

Proviso.

153. The assignees for the time being may issue and enforce execution upon any such certificate as last aforesaid, as fully to all intents and purposes as the assignees to whom such certificate shall have been originally granted.

Assignees for the time being may issue execution on such certificate.

154. If any insolvent shall be taken in execution after the refusal of protection, or after the refusal or suspension of his certificate, he shall not be discharged from such execution until he shall have been in prison for the full period of one year, except by order of the district court.

Insolvent taken, not discharged for one year.

155. Every district judge shall transmit to the Colonial Secretary on or before the 15th day of January and the 15th day of July in each year the name and residence of every insolvent whose certificate shall have been refused or suspended by such judge, and who shall then be uncertificated; and the said Colonial Secretary shall thereupon cause a list, alphabetically arranged, showing the names and residences of all such uncertificated insolvents, to be prepared and published in the "Government Gazette" for general information.

List of uncertificated insolvents to be published in the Gazette every six months.

156. If any insolvent, or the wife of any insolvent, shall refuse to make and sign the declaration contained in the schedule to this Ordinance annexed, or if any other person shall refuse to be sworn, or shall refuse to answer any lawful question put by the court, or shall not fully answer any such question to the satisfaction of the court, or shall refuse to sign his examination when reduced into writing (not having any lawful objection allowed by the court), or shall not produce any books, papers, deeds, and writings, or other documents in his custody or power, relating to any of the matters under inquiry, which such insolvent, wife of the insolvent, or person, is required by the court to produce, and to the production of which he shall not state any objection allowed by the court, it shall be lawful for the court, by warrant, to commit such insolvent, wife of such insolvent, or other person, to prison, there to remain without bail until he shall submit himself to such court to be sworn, and full answers make to the satisfaction of such court to all such lawful questions as shall be put by the court, and sign such examination, and produce such books, papers, deeds, writings, and other documents in his custody or power, to the production of which no such objection as aforesaid has been allowed.

Any person refusing to be sworn or refusing to answer, or not fully answering, or refusing to sign examination or to produce books, &c., may be committed.

Questions to be specified in warrant.

157. If any person be committed by the district court for refusing to answer or for not fully answering any question put to him by the court, such court shall in its warrant of commitment specify every such question: Provided that if any person so committed shall bring any habeas corpus in order to be discharged from such commitment, and there shall appear on the return of such habeas corpus any such insufficiency in the form of the warrant whereby such person was committed, by reason whereof he might be discharged, it shall be lawful for the Supreme Court, and such court is hereby required, to commit such person to the same prison, there to remain until he shall conform, unless it shall be shown to such court by the person committed that he has fully answered all lawful questions put to him by the district court, or if such person was committed for refusing to be sworn, or for not signing his examinations, unless it shall appear to the supreme court that he had a sufficient reason for the same: Provided also, that the Supreme Court shall, if required thereto by the person committed, in case the whole of the examination of the person so committed shall not have been stated in the warrant of commitment, inspect and consider the whole of the examination of such person whereof any such question was a part; and if it shall appear from the whole examination that the answer or answers of the person committed is or are satisfactory, such court shall and may order the person so committed to be discharged.

Proviso.

Persons disobeying any order of court to be committed.

158. If any person shall disobey any rule or order of the district court, duly made by such court, for enforcing any of the purposes and provisions of this Ordinance, or made or entered into by consent of such person for carrying into effect any of such purposes or provisions, the court may, by warrant in the form S. in the schedule to this Ordinance annexed, commit the person so offending to prison, there to remain without bail until such court, or the Supreme Court, shall make order to the contrary.

If petitioning creditor's debt be not due, or if act of insolvency be not proved, and petition be filed fraudulently or maliciously, court may order satisfaction.

159. If the debt stated by the petitioning creditor in his affidavit, or in his petition for sequestration, and verified by affidavit to be due to him from any person, shall not be really due, or if, after a petition for sequestration filed, it shall not have been proved that the person against whom such petition has been filed had committed an act of insolvency, and it shall also appear that such petition was filed fraudulently or maliciously, the court shall and may, upon petition of the person against whom any such petition was so filed, examine into the same, and order satisfaction to be made to him for the damages by him sustained.

Petitioning creditor compounding with person after insolvency to forfeit his debt, and pay the money, &c.

160. If any petitioning creditor shall, after the filing of his petition, receive any money, satisfaction, or security for his debt or any part thereof, whereby such petitioning creditor may receive more in the pound in respect of his debt than the other creditors, such petitioning creditor shall forfeit his whole debt, and shall also repay or deliver up such money, satisfaction, or security, or the full value thereof, to the assignees of such insolvent for the benefit of the creditors of the insolvent.

Concealing insolvent's effects.

161. Any person who shall wilfully conceal any real or personal estate of the insolvent, and who shall not within forty-

two days after the filing of the petition for sequestration, discover such estate to the court or to the assignees, shall forfeit the sum of one hundred pounds, and double the value of the estate so concealed; and any person, other than the person who shall have concealed the same, who shall after such time voluntarily discover to the court or to the assignees any part of such insolvent's estate not before come to the knowledge of the assignees, shall be allowed five per centum thereupon, and such further reward as the assignees, with the consent of the court, shall think fit to be paid out of the estate recovered on such discovery.

Penalty.

Allowance to persons making discovery.

162. If any creditor of any insolvent shall obtain any sum of money, or any property whatever, or security for money, from any person as an inducement for forbearing to oppose or for consenting to the allowance of the certificate of such insolvent, or to forbear to petition for the recall of the same, every such creditor so offending shall forfeit and lose for every such offence the treble value or amount of such money, property, or security so obtained (as the case may be).

Obtaining money, &c., to forbear opposition to, or to consent to allowance of, certificate. Penalty.

163. Any person who shall insert or cause to be inserted in the "Government Gazette," or in any newspaper, any advertisement under this Ordinance without authority, or knowing the same to be false in any material particular, shall be guilty of an offence, and liable on conviction to punishment by fine or imprisonment as the district court shall award.

Inserting advertisements without authority.

And with regard to the power of arrest in mesne process or in execution upon final process, it is enacted:

164. That from and after the commencement of this Ordinance no person shall be arrested in mesne process, or taken or charged in execution upon any judgment obtained in any court of this colony, in any action for the recovery of any debt contracted subsequently to the time when this Ordinance comes into operation, wherein the sum claimed or recovered shall not exceed the sum of ten pounds, exclusive of interest and of the costs recovered by such judgment.

Arrest in action for debt not exceeding 10*l.* and costs abolished.

165. Provided that if at any time it shall appear to the court before which such action for the recovery of a debt not exceeding ten pounds shall be tried, that the defendant in incurring the debt or liability which may be the subject of demand has obtained credit from the plaintiff under false pretences, or with a fraudulent intent, or has wilfully contracted such debt or liability without having at the same time a reasonable assurance of being able to pay or discharge the same, or shall have made or caused to be made any gift, delivery, or transfer of any property, or shall have removed or concealed any property with an intent to defraud his creditors, or any of them, it shall be lawful for such court, if the judge thereof shall think fit, in giving judgment, to order that such defendant may be taken and detained in execution upon such judgment in like manner as he might have been if this Ordinance had not been enacted, for any time not exceeding six months, whether or not execution against the property of such defendant shall be issued in virtue of such judgment.

Power of imprisonment for fraud.

SCHEDULE.

A.

THE INSOLVENT ORDINANCE, 1853.

Declaration of Insolvency.

I, the undersigned, *A.B.*, of do hereby declare that I am unable to meet my engagements with my creditors.

Dated at the hour of o'clock (in the forenoon, *or* at noon, *or* in the afternoon, *as the case may be*) this day of in the year of our Lord

Witness, (Signed) *A.B.*

C.D.

B.

THE INSOLVENT ORDINANCE, 1853.

Petition by a Creditor for Sequestration of his Debtor's Estate.

To the District Court of

The humble petition of

Sheweth,

That having resided (*or* carried on business, *as the case may be*) for six months next immediately preceding the date of this petition, within the district of this court, that is to say, at is indebted unto your petitioner in the sum of fifty (*if two petitioners*, seventy, *and if three or more*, one hundred pounds, *as the case may be*) and that your petitioner has been informed and believes that the said did lately commit an act of insolvency within the true intent and meaning of the Insolvent Ordinance.

Your petitioner therefore humbly prays that on proof of the requisites in that behalf the estate of the said may be adjudged insolvent and placed under sequestration.

And your petitioner shall ever pray, &c.

Signed by the petitioner on the day of 18 in the presence of

If the petition be by partners alter the form accordingly, and let it be signed by one on behalf of himself and partners.

If the petition be by several, not being partners, then it must be signed by each, and in such case the names of the several petitioners should be stated in the attestation or attestations relating thereto respectively.

If the petitioner cannot speak to the place of residence or business of the debtor, strike out the averment as to that, and annex to the petition a separate affidavit of some person who can depose to the fact.

If the petition be against partners, alter the form accordingly.

C.

THE INSOLVENT ORDINANCE, 1853.

Affidavit of truth of Allegations in Petition.

day of A.D.

of in the district of the petitioner named in the petition hereunto annexed, maketh oath and saith that the several allegations in the said petition (*and in the list annexed thereto,* where the petition is by the insolvent himself) are true.

Sworn at this day of one thousand eight hundred and before me

D.

THE INSOLVENT ORDINANCE, 1853.

Petition by a Person for Sequestration of his own Estate as Insolvent.

The humble petition of

Sheweth,

That your petitioner having resided (*or* carried on business, *as the case may be*) for six months next immediately preceding the date of this petition, within the district of this court, that is to say, at , and being unable to meet his engagements with his creditors, whose names are inserted in the list to this his petition annexed, has filed a declaration of insolvency in manner and form in that case made and provided, and that your petitioner verily believes that he can make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least five shillings in the pound, (*or*, that your petitioner is in actual custody within the walls of the prison at for debt, and has been so since the day of last).

That your petitioner has examined the said list, and that it contains a full and true account of your petitioner's debts and the claims against him, with the names of his creditors and claimants, and the dates of contracting the debts and claims severally, as near as such dates can be stated, the nature of the debts and claims, and securities (if any) given for the same, and that there is reasonable ground for disputing so much of the debts as are thereby mentioned as disputed; and also a true account of the nature and amount of his property, and an inventory of the same and of the debts owing to him, with their dates as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts.

Your petitioner therefore humbly prays that on proof of the requisites in that behalf his estate may be adjudged insolvent and placed under sequestration.

And your petitioner shall ever pray, &c.

Signed by the petitioner on the day of 18 in the presence of

If the petition be by partners, alter the form accordingly, and state the names of the several petitioners in the attestation or attestations relating thereto respectively.

E.

THE INSOLVENT ORDINANCE, 1853.

Order to prosecute a Petition for Sequestration in a particular District.

In the Supreme Court of the Island of Ceylon, the day of A.D.

In the matter of a petition for sequestration as insolvent of the estate of *C.D.* of

Upon application made to this day by (of counsel *or* proctor) for and upon reading the affidavit of it is hereby ordered that the petition for sequestration as insolvent of the estate of the above-named *C.D.* be prosecuted in the district court of

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F.

THE INSOLVENT ORDINANCE, 1853.

Order to consolidate Proceedings.

In the Supreme Court of the Island of Ceylon, the day of A.D.

Ex parte

In the matter of

Upon application made to this day by (of counsel *or* proctor) for and upon reading the affidavit of it is ordered that (*stating the order*).

G.

THE INSOLVENT ORDINANCE, 1853.

Order to transfer a Petition for Sequestration, &c., from one District Court to another District Court.

In the Supreme Court of the Island of Ceylon, the day of A.D.

Ex parte

In the matter of

Upon application made to this day by (of counsel *or* proctor) for and upon reading the affidavit of it is ordered that (*stating the order*).

H.

THE INSOLVENT ORDINANCE, 1853.

Order for an Attachment upon the Estate of the Insolvent.

In the district court of , the day of
In the matter of an insolvent.
To the Fiscal of the province.

Whereas the above-named has been adjudged an insolvent under the Insolvent Ordinance, 1853, the estate of the said is hereby placed under sequestration in your hands, and you are hereby ordered forthwith to lay an attachment on the property of the said under inventory thereof, and to proceed therein as directed by the said Ordinance, and to return this order with what you have done thereon to this court on or before the day of next.

And for so doing this shall be your sufficient warrant.

A.B.
District Judge.

I.

THE INSOLVENT ORDINANCE, 1853.

Order for Petition for Sequestration to be proceeded in, on a substituted Debt.

In the district court of the day of
In the matter of an insolvent.

Upon application made to the court this day, by (of counsel *or* proctor) for a creditor of the above-named insolvent, and who has proved a debt of sufficient amount to support an adjudication, and the debt of the petitioning creditor having been found by the court to be insufficient to support the adjudication of insolvency against the above-named , it is hereby ordered that the petition for sequestration filed against the said on the day of be proceeded in, and that the costs of, &c. (*stating such order as to costs of any of the parties concerned as the court thinks fit.*)

A.B.
District Judge.

K.

THE INSOLVENT ORDINANCE, 1853.

Order annulling Adjudication.

In the district court of , the day of
In the matter of

Upon reading the proceedings in the above matter, and upon hearing (the evidence now adduced, *if the case be so,* and) what was alleged by and being satisfied that the petitioning creditor's debt and act of insolvency (*or specify the*

particular matter deemed insufficient, as the case may require) upon which the adjudication of insolvency made against the said on the day of was grounded, were and are (*or*, was and is) insufficient to support such adjudication, and no other debt, or act of insolvency (*or specify the particular matter requisite in lieu of that deemed insufficient, as the case may require*) sufficient to support such adjudication being proved, it is ordered that the adjudication of insolvency made against the said on the said day of be annulled, and the same is hereby annulled accordingly.

A.B.
District Judge.

L.

THE INSOLVENT ORDINANCE, 1853.

Search Warrant.

In the district court of , the day of

Whereas by evidence upon oath it hath been made to appear to this court, acting in the prosecution of a petition for sequestration filed and now in prosecution against of , bearing date the of , and under which the said has been adjudged insolvent, that there is reason to suspect and believe that property of the said is concealed in the house (*or other place, describing it, as the case may be*) of one of such house not belonging to the said insolvent: These are therefore, by virtue of the Insolvent Ordinance, 1853, to authorize and require you, with necessary and proper assistants, to enter, in the daytime, into the house (*or other place, describing it, as the case may be*) of the said situate at aforesaid, and there diligently to search for the said property, and if any property of the said insolvent shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the said Ordinance.

Given under my hand in the district court of this day of

A.B.
District Judge.

To the Fiscal of the province
(*or* To *if any person is specially appointed by the court.*)

M.

THE INSOLVENT ORDINANCE, 1853.

Form of Declaration to be made by the Insolvent or the Insolvent's Wife.

I, *A.B.*, the person adjudged an insolvent under a petition for sequestration of my estate, filed on the day of ,

(*or*, I, *C.B.*, the wife of *A.B.*, adjudged an insolvent under, &c.) do solemnly promise and declare that I will make true answer to all such questions as may be proposed to me respecting all the property of the said *A.B.*, and all dealings and transactions relating thereto, and will make a full and true disclosure of all that has been done with the said property, to the best of my knowledge, information, and belief.

(Signed) *A.B.*
(*or C.B.* wife of the said *A.B.*)

N.

THE INSOLVENT ORDINANCE, 1853.

Admission of Debt due to the Insolvent.

I, the undersigned *J.K.* of do hereby, in open court, confess that I am indebted to *E.F.*, of an insolvent, in the sum of upon the balance of accounts between myself and the said *E.F.*

(Signed) *J.K.*

Witness,
A. B.
District Judge.

O.

THE INSOLVENT ORDINANCE, 1853.

Order for Payment of Debt admitted in court to be due to the estate of an Insolvent.

In the district court of , the day of
In the matter of *E.F.* an insolvent.

Whereas *J.K.* of in his examination taken the day of and signed by the said *J.K.*, has admitted that he is indebted to the above-named insolvent in the sum of upon the balance of accounts between the said *J.K.* and the said insolvent, it is hereby ordered that the said *J.K.* do pay to the assignees of the estate and effects of the said insolvent, in full discharge of the sum so admitted, the sum of forthwith (*or if otherwise, state the time and manner of payment*), and that the said *J.K.* do also pay to the said assignees the sum of for the costs of and incident to the summons of the said *J.K.* in this behalf.

A.B.
District Judge.

If the court shall not adjudge the costs of and incident to the summons to be paid by the person summoned, or if the court shall adjudge the assignees to pay to the person summoned his costs out of the estate of the insolvent, alter the form accordingly.

P.

Documents.

	Stamp duty. £	s.	d.
Every petition for sequestration of any estate as insolvent, except it shall be averred in the petition that to the best of the petitioner's belief the available estate does not amount to 75*l.* - - -	3	0	0
Every declaration of insolvency - - -	0	2	0
Every summons of debtor - - - -	0	2	0
Every bond with sureties - - - -	0	4	0

Q.

THE INSOLVENT ORDINANCE, 1853.

Certificate of Conformity.

I district judge of acting in the prosecution of a petition for sequestration of the estate of as insolvent, and bearing date the day of , do certify that the said became insolvent before the date and filing of the said petition within the true intent and meaning of the Insolvent Ordinance of 1853, and was thereupon adjudged insolvent accordingly, and I further certify that due notice was given in the "Government Gazette" of this colony of such petition having been filed and of the adjudication thereon, and that two public sittings for the said insolvent to surrender and conform were duly appointed, the last of which said sittings was appointed to be on the day of last; and I further certify that such two several sittings were had pursuant to such notice, and that upon the said day of the said insolvent did surrender himself, and did sign such surrender and submit to be examined from time to time upon oath; and I further certify that the said insolvent did on the day of last finish his examination, and upon such examination made a full disclosure and discovery of his estate and effects, and in all things conformed, and so far as the court can judge there doth not appear any reason to question the truth or fulness of such discovery; and I further certify that on the day of in the district court of I held a public sitting for the allowance of this certificate to the said insolvent, (whereof and of the purport whereof the notice required in that behalf was duly given,) and having regard to the conformity of the said insolvent to the said Ordinance, and to his conduct as a trader (*or* in relation to his estate) before as well as after his insolvency, I did then and there find the said insolvent entitled to such certificate, and did allow the same; and I further certify that his insolvency has arisen from unavoidable losses and misfortunes, and that he is entitled to and I do award him this certificate as of the first class; (*or*, that his insolvency has not wholly arisen from unavoidable losses and misfortunes,

and that he is entitled to and I do award him this certificate as of the second class; *or* that his insolvency has not arisen from unavoidable losses or misfortunes, and that he is only entitled to and I do only award him this certificate as of the third class).

(*If the certificate be allowed with conditions the same to be inserted here.*)

Given under my hand in the district court of this day of

A.B.
District Judge.

Signed in the presence of

R.

THE INSOLVENT ORDINANCE, 1853.

Certificate to Assignees or to Creditor to entitle them to issue Writ of Execution.

In the district court of , the day of
In the matter of an insolvent.

I hereby certify that *A.B.* of and *C.D.* of , assignees of the estate and effects of the above-named insolvent, are creditors of the said insolvent as such assignees for the sum of £ in trust for the creditors of the said insolvent (*or* that *E.F.* of is a creditor of the said insolvent for the sum of £), and that the said insolvent is not protected by this court from process against his person.

G.H.
District Judge.

S.

THE INSOLVENT ORDINANCE, 1853.

Warrant against Person disobeying any Order of the Court.

Whereas by an order of this court bearing date the day of made for enforcing the purposes and provisions of the Insolvent Ordinance, 1853, it was ordered that (*as in the order*); and whereas it is now proved that after the making of the said order, that is to say, on this day of , a copy of the said order was duly served on the said personally, and the original order at the same time shown to him, but the said then refused (*or* neglected) to obey the same, and hath not as yet obeyed the said order: These are therefore to require you forthwith to take into your custody the body of the said and him safely to convey to the prison at and him there to deliver to the keeper of the said prison, together with this precept, and the keeper of the

said prison is hereby required to receive the said into his custody and him safely to keep and detain, without bail, until this court or the Supreme Court shall make order to the contrary; and for so doing this shall be your sufficient warrant.

Given under my hand in the district court of , the day of in the year

A.B.
District Judge.

To the Fiscal of the province, and to the keeper of the prison at

23rd November 1853.

96.

No. 10 of 1854.

To make provision respecting Burial Grounds and the Burial of the Dead.

Preamble.

Whereas it is expedient to make provision touching burial grounds and the burial of the dead, with a view to the protection of the public health: It is enacted as follows:

New burial grounds in certain towns to be approved by the Governor.

1. No new burial ground shall be provided and used in any of the places mentioned in the schedule to this Ordinance, or to which this Ordinance is applied as herein-after mentioned, without the previous approval of the Governor, on the recommendation of the Board of Health of the province, signified by notice in the "Government Gazette."

Burials forbidden in churches hereafter erected within such towns.

2. It shall not be lawful to bury any corpse or coffin in any place of public worship erected after this Ordinance comes into operation within any of the places mentioned in the said schedule, or to which this Ordinance is applied as herein-after mentioned: Provided that nothing herein contained shall be construed to revoke or affect the prohibition against burials within certain churches, and within the enclosed ground about the same, contained in the Ordinance No. 11 of 1842, entitled "An Ordinance to provide for a Church in Kandy," and in the Ordinance No. 12 of 1846, entitled "An Ordinance to regulate the Temporal Affairs "of the Episcopal Churches in the Island of Ceylon which have "been erected or are now in course of erection, or which may "hereafter be erected in terms of the Ordinance No. 1 of 1845," which prohibition shall remain of full force and effect to all intents and purposes.

Penalty for breach of the preceding sections.

3. Whosoever shall bury, or cause, permit, or suffer to be buried, any corpse or coffin in any burial ground, or in any place of public worship, or the enclosed ground about the same, contrary to the provisions contained in the two preceding sections, or in the said Ordinances No. 11 of 1842 and No. 12 of 1846, shall for every such offence be liable, on conviction, to a penalty not exceeding twenty pounds.

4. In case it appears to the Governor and Executive Council, upon the representation of the Board of Health of the province, or after inquiry by such ways and means as the said Governor and Council may think fit to direct, that any burial ground situate in any place mentioned in the schedule to this Ordinance, or to which this Ordinance is applied as herein-after mentioned, is in such a state or locality as to be dangerous to the health of persons living in the neighbourhood thereof; or that by reason of the surcharged state of the vaults or graves within any place of public worship, in any such place as aforesaid, or other cause, it is dangerous to the health of persons frequenting such place of public worship to permit the continuance of burials in any vaults or graves within the same, and that sufficient means of interment exist within a convenient distance from such burial ground or place of public worship, it shall be lawful for the Governor, with the advice of the said Executive Council, to order that, after a time to be mentioned in the order, burials in any such burial ground or place of public worship shall be discontinued; and every such order shall be published in the "Government Gazette."

Burial grounds, &c. dangerous to health may be prohibited.

5. After the time mentioned in any such order it shall not be lawful to bury any corpse or coffin in any burial ground or place of public worship mentioned in such order; and every person who after such time as aforesaid shall bury, or cause, permit, or suffer to be buried, any corpse or coffin, contrary to this enactment, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding twenty pounds.

Burials not to take place after order for discontinuance.

6. All graves in any burial ground within any of the places mentioned in the schedule to this Ordinance, or to which this Ordinance is applied as herein-after mentioned, shall be dug to such a depth, being not less than three feet, as, considering the nature of the soil and other circumstances, the Board of Health of the province may think fit to direct; and the said board shall cause notice to be given of the depth to which graves are to be dug in any such burial ground, in such manner as the said board may think best adapted for giving the greatest publicity thereto; and whosoever, after such public notice, buries, or causes, permits, or suffers to be buried any corpse or coffin contrary to this enactment, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding five pounds.

Graves to be of a certain depth.

7. All burial grounds within any of the places mentioned in the schedule to this Ordinance, or to which this Ordinance is applied as herein-after mentioned, shall be enclosed with a sufficient wall or fence, and be kept clear of low jungle or underwood; and it shall be lawful for the Board of Health of the province to call upon the trustees, managers, or proprietors of any such burial ground, or upon the person having sole or principal charge thereof, to enclose or to clear the same as aforesaid, within a reasonable time to be determined by such board; and in case of non-compliance with such requisition, it shall be lawful for the said board to cause any such burial ground to be properly enclosed or cleared of jungle, at the expense of such trustees, managers, proprietors, or person having sole or principal charge thereof as aforesaid.

Burial grounds to be enclosed and kept clear of jungle.

Ordinance may be applied to other towns, &c.

8. It shall be lawful for the Governor, with the advice of the Executive Council, by any proclamation to be by him from time to time for that purpose issued and published in the "Government Gazette," to declare that the provisions contained in this Ordinance shall extend to and may be brought into operation within any town, village, or other place in this colony, other than those mentioned in the schedule to this Ordinance; and thereupon its several provisions shall apply and extend to and may be enforced within any town, village, or place mentioned in such proclamation, as fully to all intents and purposes as if such town, village, or place had been mentioned in the said schedule.

Limitation of prosecution.

9. No prosecution shall be instituted against any person for an offence against the provisions of this Ordinance, unless the same shall be commenced within three months from the commission of the offence.

Informer's share of penalty.

10. It shall be lawful for the court before which any conviction under this Ordinance shall take place, to award to the person who may have given information of the offence such share of any penalty actually recovered, not exceeding the half of the sum recovered, as the court may deem fit.

11. Has had its effect.

SCHEDULE.

The town, fort, and gravets of Colombo.
The town and gravets of Kandy.
The town, fort, and gravets of Galle.
The town, fort, and gravets of Jaffna.
The town, fort, and gravets of Trincomalee.
The town and gravets of Negombo.
The town, fort, and gravets of Matura.

23rd December 1854.

97.

No. 3 of 1855.

To provide for the Security of the Pioneer Pension Fund.

Preamble.

Whereas a fund has been established for the purpose of providing gratuities or pensions for worn-out and disabled members of the pioneer and elephant departments, and overseers employed under the Commissioner of Roads; and it is expedient to make provision for the due security of such fund: It is enacted as follows:

Designation of the fund.

1. The said fund shall be designated and known as "The Pioneer Pension Fund."

Fund to be vested in trustees.

2. All monies, bonds, and securities for money belonging to or constituting, or which shall at any time hereafter belong to or constitute the Pioneer Pension Fund aforesaid, and all interest accruing therefrom, shall be and are by virtue of this Ordinance,

and without any deed of transfer or other assignment, vested in the Colonial Secretary for the time being, the Auditor General for the time being, and the Commissioner of Roads for the time being, who shall have and hold the same in trust for and to the use and benefit of the persons interested in the said fund and entitled to any gratuity or pension therefrom.

3. The said trustees shall open an account with some bank, or with the General Treasury in this colony, in the name of the said fund, and as soon as they shall receive any sum of money belonging to such fund, shall with all convenient speed pay the same into such bank, or into the General Treasury, to be placed to the credit of such account; and it shall be lawful for the said trustees to withdraw the whole or any part of the monies so paid into such bank, or into the General Treasury, upon cheques signed by the said trustees, or by any two of them; and no part of such monies shall be withdrawn from the said bank, or from the General Treasury, otherwise than upon such cheques as aforesaid.

Trustees to keep money in some bank in the colony, or in the Treasury.

Such money, how to be withdrawn.

4. The said trustees shall from time to time, and so soon as they shall find opportunity, invest and lay out, in their discretion, the said monies, or any part thereof not required to meet the current expenditure on account of the said fund, at interest, on good and sufficient security, that is to say, on the mortgage of immovable property within the colony, and with or without additional security, as in each particular case may be deemed advisable; or in securities of the Government of this colony, or of the East India Company: Provided that no loan shall be made to or in favour or on account of the said trustees, or any of them; and the said trustees may from time to time sell or otherwise dispose of any such securities, and call in and demand payment of any of the monies belonging to such fund which have been already, or may hereafter be, lent out at interest.

Trustees to invest monies on good securities.

Proviso.

Trustees may call in outstanding claims.

5. On or before the 15th day of March in each year an account of the state of the fund, made up to the end of the previous year, shall be published by the trustees in the English and native languages in the "Government Gazette" for general information.

Trustees to publish annual account of the fund in the Gazette.

6. The said trustees shall from time to time, out of the funds vested in them as aforesaid, pay such gratuities and pensions, to such persons and in such manner as they shall be directed by any order or instruction from time to time in that behalf given to them by the Governor.

Trustees to pay such gratuities or pensions as directed by the Governor.

7. No trustee under the authority of this Ordinance shall be personally liable, except for his own acts and deeds, nor for anything done by him in virtue of his office, except he shall have been guilty of fraud or gross negligence.

Trustees not personally liable except for misconduct.

8. All bonds and other instruments granted to the trustees may be made in the name of "The Trustees of the Pioneer Pension Fund," without specifying the names of the trustees.

Bonds and other instruments need not specify names of trustees.

9. It shall be lawful for the said trustees to commence and maintain such suits as they shall deem necessary to the performance of the trust reposed in them; and such suits shall be brought by them in the name of "The Trustees of the Pioneer

Trustees may sue and be sued.

Pension Fund," without specifying the names of the trustees ; and no suit shall abate by reason of the death or removal or going out of office of any trustee ; and all suits the cause of which shall arise or accrue to any person from or by reason of any act, matter, or thing done or performed by the said trustees in the execution of their trust shall be brought by such person against the said trustees under the name and title aforesaid.

10. Has had its effect.

4th August 1855.

98.

No. 6 of 1855.

To amend the Ordinance No. 11 of 1844.

Preamble.

Whereas it is expedient to amend in certain respects the Ordinance No. 11 of 1844, entitled "To provide for the Recovery of pecuniary Fines, Penalties, and Forfeitures awarded after criminal convictions, and for contempts, and of forfeited Recognizances taken before Justices of the Peace," it is enacted as follows :

1. Repealing clause.

Proceedings for recovery of penalties.

2. Whenever any person, upon conviction before any court in this island of any crime or offence, or of the breach of any Ordinance, shall be adjudged to pay any pecuniary penalty, or to pay any pecuniary penalty and in default of payment thereof to imprisonment, then in any such case if such person shall not immediately, when to the court it shall appear necessary, or within such time as the court shall appoint, pay into court the amount of such pecuniary penalty, it shall be lawful for the court making such conviction, and the said court is hereby required, to issue a warrant of distress (A.) for the purpose of recovering the same, together with the reasonable charges incurred in respect of such recovery, by distress and sale of the property of such person, or of a sufficient portion thereof; and the overplus, if any, after deducting the amount specified in such warrant, and the charges of such distress and sale, shall be restored to such person on demand.

Proviso in case of penalties, &c. imposed by the Supreme Court.

3. Provided that whenever any person shall be adjudged by the Supreme Court to pay any pecuniary penalty, the said court shall make order directing payment thereof to be made into the district court of the district wherein such person resides, or wherein the offence in respect of which such penalty has been imposed was committed ; and if payment shall not be made as directed the said district court shall proceed to enforce the same, and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if such penalty had been imposed by the said district court.

Amendment of No. 11 *of* 1844.

4. If any pecuniary penalty shall not be paid into court at the time appointed by the court for the payment thereof, it shall be lawful for the court by warrant (B.) to commit the person adjudged to pay the same to prison, therein to be detained until a return shall have been made to such warrant of distress as aforesaid, unless such person shall give sufficient security, by recognizance (C.), to the satisfaction of the judge or magistrate of such court, for his appearance before the court on such day as shall be appointed for the return of such distress warrant, or unless the amount of such penalty shall be sooner paid into court.

Party may be imprisoned until return has been made to distress warrant.

5. If, upon the return of any warrant of distress issued, upon conviction, for any penalty, it shall appear from such return, or shall be shown to the satisfaction of the court, either by confession of the offender or otherwise, that no sufficient distress can be had thereupon, the said court shall and is hereby required by warrant (D.) to commit such offender to prison, therein to be detained, at hard labour or otherwise, as the court shall appoint, for the period of one month for every one pound of such penalty and charges that shall remain unpaid, and for the period of fifteen days for any sum amounting to ten shillings and less than one pound, and for the period of six days for any sum less than ten shillings, of such penalty and charges that shall remain unpaid, any law or ordinance or sentence of any court to the contrary notwithstanding: Provided that any period of imprisonment that may have been suffered under the provisions of the preceding section, shall be counted as part of the period of imprisonment to be suffered for nonpayment of any penalty under the provisions of this section, and provided, also, that whatever be the amount of any penalty, the offender shall not be imprisoned for nonpayment thereof for a longer period than twelve months; or, if a shorter period of imprisonment has been or shall be expressly provided by any law now or hereafter to be in force as the maximum of imprisonment in any case, then such offender shall not be imprisoned for a longer period than that so expressly provided.

If no sufficient distress, party to be imprisoned one month for every one pound unpaid.

Imprisonment pending return to distress warrant to be counted.

No imprisonment for nonpayment of a fine to exceed twelve months; or to exceed the maximum of imprisonment expressly fixed by law in any case.

6. If any person shall be sentenced to pay any penalty, and in default of payment to imprisonment for a longer period than according to the provisions of the preceding section such person is liable to be imprisoned for nonpayment of such penalty, then such sentence shall be void only as regards the excess of imprisonment thereby awarded, but shall stand good and may be carried into execution as regards the imposition of such penalty and the residue of such period of imprisonment; and in any such case the Fiscal to whose custody the prisoner shall have been committed shall bring the matter to the notice of the court by which the sentence was passed, and the said court shall thereupon make order for the prisoner's discharge at the expiration of the period for which he might be lawfully imprisoned under the provisions of this Ordinance.

Sentence of imprisonment for a longer period than fixed by the preceding section to be void for the excess only.

7. Imprisonment for nonpayment of any penalty for the period of twelve months, or for such shorter period as, in any case, may be the maximum of imprisonment expressly provided by law in such case, shall be deemed an extinguishment of the debt to the

Imprisonment to be a discharge of penalty to the extent of 15*l.*

Crown in respect of so much of such penalty as does not exceed fifteen pounds; but any sum over and above fifteen pounds which shall remain unpaid of any such penalty and charges, may be recovered by warrant of distress and sale of the property of the debtor in manner aforesaid, at any time within ten years from the date of the conviction.

Fines for contempt, &c., how recovered.

8. If any person shall disobey any subpœna or summons, or commit any other contempt of any court in this island, and being adjudged by such court to pay any pecuniary penalty in respect of such disobedience or contempt, shall fail to make payment thereof as directed by the court, such penalty, and all charges relating to the recovery thereof, shall be recovered by the said court in the manner provided by this Ordinance for the recovery of pecuniary penalties imposed upon convictions for crimes or offences, or for breach of any Ordinance.

Ordinance not to affect discretionary power of punishing by fine or by imprisonment.

9. Nothing in this Ordinance contained shall be deemed to take away or abridge the power which any court may possess of sentencing any person convicted before such court of an offence punishable in the discretion of such court either by fine or by imprisonment, to imprisonment instead of to the payment of a fine.

If a person does not appear upon recognizance it shall be sent to the Queen's Advocate for recovery.

10. When any person shall have entered into a recognizance to Her Majesty before any judge, magistrate, or justice of the peace, to appear before any court, and shall not have appeared in conformity with the condition thereof, the registrar or other proper officer of such court shall certify (E.) on the back of the recognizance the non-appearance of such person, and shall deliver or transmit the same to the Queen's Advocate or Deputy Queen's Advocate empowered to act within the district in which the same has been taken, to be proceeded upon as herein-after directed; and such certificate shall be deemed sufficient *primâ facie* evidence of such non-appearance of the said person.

Proceedings in case of forfeited recognizance.

11. Whenever any recognizance to Her Majesty whatsoever shall be forfeited by reason of the breach of any condition thereof, it shall be lawful for the Queen's Advocate or Deputy Queen's Advocate empowered to act within the district in which the same has been taken to apply to the district court of such district for a summons (F.) to the person bound by such recognizance, and to his surety or sureties, if any, requiring him or them to appear before the said court on a day to be therein named, to show why the sum or sums which he or they has or have acknowledged to owe to Her Majesty should not be levied on their goods, lands, and other property to Her Majesty's use, according to the tenor and effect of such recognizance; and the said court shall thereupon issue its summons in conformity with such application, which shall be served personally on such parties, or left at their usual places of abode; and if on the day for appearance mentioned in such summons (whether the parties summoned shall be present or not, provided the summons has been duly served), or on any day to which the hearing of the application may be adjourned by the court, it shall be made to appear to the said court that a breach of the condition or of any of the conditions of such recognizance

has been committed, then the said court shall (unless payment of the amount due thereon be made into court at a certain time to be named by such court) issue a warrant of distress (G.) to recover the amount so due, together with the reasonable costs of such application, by distress and sale of the property of the said debtors, or of a sufficient portion thereof, or of such of the said debtors as appear, or have been duly summoned to appear; and the overplus, if any, after deducting the amount specified in such warrant, and the charges of such distress and sale, shall be restored to the person entitled thereto, on demand; but if no sufficient distress can be had thereupon, it shall be lawful to proceed against the parties who have incurred the forfeiture in the manner provided by the fifth section of this Ordinance in the case of the nonpayment of a penalty.

Forfeiture may be remitted or mitigated on good cause shown.

12. Upon the hearing of any such application as in the preceding section mentioned, or in case of the forfeiture of any sum deposited instead of bail, upon the application to the district court of the defendant, the court may in its discretion, on good and sufficient cause being shown to its satisfaction, remit the whole or any part of the forfeiture which has been incurred, upon such terms as it shall deem just: Provided due notice in writing of the application for remission shall have been given to the Queen's Advocate or competent Deputy Queen's Advocate, with copies of any affidavits on which it is founded; and provided also, that such application for remission, if granted either in whole or in part, shall be granted only upon payment of the costs and expenses incurred in the proceedings for the enforcement of the forfeiture.

Proviso.

If property or person beyond the district, warrant may be endorsed.

13. If in any case sufficient distress cannot be had within the jurisdiction of the court out of which any warrant of distress has issued, but the person against whom such warrant shall have issued shall be possessed of property within another district, or if any person liable to imprisonment under the provisions of this Ordinance shall be found within another district than that in which he has become so liable, the district judge or police magistrate of such other district, upon production to him of any warrant of distress or of apprehension in respect of such person, issued by the district or police court, as the case may be, shall endorse the same, and direct it to the Fiscal or other proper officer of his district for execution, who is hereby required to execute the same, and thereafter to transmit it, together with the sum levied, or with the body of the person so apprehended, or both, as the case may be, to the court out of which such warrant originally issued.

Defect or want of form in warrant not to render the distress unlawful, &c.

14. No distress made by virtue of this Ordinance shall be deemed unlawful, nor shall the party making the same be deemed a trespasser, on account of any defect or want of form in the warrant of distress, or in any proceeding relating thereto; nor shall the officer distraining be deemed a trespasser from the beginning on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for the special damage he may have sustained thereby.

Amendment of No. 11 *of* 1844.

Forms in schedule deemed valid.

15. The several forms in the schedule to this Ordinance, or forms to the same or to the like effect, shall be deemed good, valid, and sufficient in law.

Explanation of the term penalty.

16. The word "penalty," as used in this Ordinance, shall be construed to include any fine or pecuniary forfeiture or compensation adjudged upon conviction of any crime or offence, or the breach of any Ordinance, by any court in this island.

17. Has had its effect.

SCHEDULE.

A.

Warrant of Distress upon Conviction for a Penalty.

In the Court of

To the Fiscal of the province or his lawful deputy.

Whereas *A.B.* of was on this day (or on last past) duly convicted before the said court of of (*here state the offence*) and was adjudged to pay the sum of (*as in the sentence*) [*and in default of payment to imprisonment, &c., as the case may be*]: And whereas the said *A.B.* being so convicted as aforesaid, and being (*now*) required to pay the said sum of , hath not paid the same, or any part thereof, but therein hath made default: These are therefore to command you in Her Majesty's name forthwith to make distress of the goods, lands, and property of the said *A.B.*; and if the said sum, together with the reasonable charges of taking and keeping the distress, shall not be paid, that you do sell the property so by you distrained, and do pay into court the money received by you in virtue of this warrant, that the same may be paid and applied as by law directed; and if no property of the said *A.B.* can be found, then that you certify the same to this court to the end that such further proceedings may be had thereon as the law directs: And return to this court on the day of next what you have done by virtue hereof.

Given under my hand this day of 185 at

(*Signature of Judge or Magistrate.*)

B.

Warrant of Commitment until Return to Distress Warrant.

In the Court of

To the Fiscal of the province, or his lawful deputy.

Whereas on the last past, *A.B.* of was convicted of (*here state the offence*), and was adjudged by this court to pay a penalty amounting to ; and whereas the same has not been paid at the time appointed by this court for that purpose, and a warrant of distress has been issued to recover the amount thereof, which said warrant is returnable on the

day of next: These are therefore to command you in Her Majesty's name to receive the said *A.B.* into your custody, and safely keep him in the gaol of the district of until the said day of next, and then produce him before this court, unless in the meantime the said *A.B.* shall give security for his appearance before this court on such day, or unless the amount of such penalty shall be sooner paid into court. And for so doing this shall be your sufficient warrant.

Given under my hand this day of 185

(*Signature of Judge or Magistrate.*)

C.

Recognizance to appear on Return of Distress Warrant.

District of

Be it remembered that on the day of in the year of our Lord 185 , *A.B.* of , *C.D.* of , and *E.F.* of . personally came before me, , district judge of the said district (*or as the case may be*), and severally acknowledged themselves to owe to Our Lady the Queen the several sums following; that is to say, the said *A.B.* the sum of , and the said *C.D.* and *E.F.* the sum of each, of lawful money of this colony, to be made and levied of their several goods, lands, and other property respectively, to the use of Our said Lady the Queen, her heirs and successors, if he the said *A.B.* fail in the condition under written.

Taken and acknowledged, the day and year above mentioned, at before me

District Judge.

The condition of the above-written recognizance is such, that whereas the above-bounden *A.B.* hath been adjudged to pay to Our Lady the Queen a penalty amounting to £ and a warrant of distress hath been issued to recover the same, returnable on the day of next; if, therefore, the said *A.B.* shall appear before the district court of the said district (*or as the case may be*) on the said day of next to be dealt with according to law, unless the amount of such penalty shall have been sooner paid into the said court by him, then the said recognizance to be void, or else to stand in full force and virtue.

D.

Warrant of Commitment where no sufficient Distress.

In the Court of

To the Fiscal of the province or his lawful deputy,

Whereas on the last past *A.B.* of was duly convicted of (*here state the offence*), and was adjudged

by this court to pay a penalty amounting to ; and whereas the same was not paid at the time appointed by this court, and a warrant of distress was issued for the recovery thereof; and whereas you have returned the said warrant to this court, and it appears by your said return that a sum of £ and no more has been levied by virtue of such warrant, and that the sum of £ is still due in respect of such penalty and of the necessary charges incurred under the said warrant, and that the said *A.B.* hath no other property to satisfy the same: These are therefore in Her Majesty's name to command you to take the said *A.B.* into your custody, and safely keep him in the gaol of the district of for the term of months and days (*as the case may require*) unless the said sum of £ shall be sooner paid [and during the said term of imprisonment that the said *A.B.* be employed at hard labour on the public works]. And for so doing this shall be your sufficient warrant.

Given under my hand the day of 185 .

(*Signature of Judge or Magistrate.*)

E.

Certificate of Non-appearance to be endorsed on the Recognizance.

I hereby certify that the said *A.B.* hath not appeared at the time and place in the above condition mentioned (*or* at the time and place at which he was bound to appear in pursuance of the above condition), but therein hath made default, by reason whereof the foregoing recognizance is forfeited.

(*Signature of Registrar or other proper Officer.*)

F.

Summons in case of forfeited Recognizance.

In the District Court of

To the Fiscal of the province or his lawful deputy.

Whereas on the day of *A.B.* of *C.D.* of and *E.F.* of came before and acknowledged themselves to owe to Our Lady the Queen the sums following, that is to say, the said *A.B.* the sum of, &c. (*as in the recognizance*) upon condition that if the said *A.B.*, &c. (*as in the condition*), as by the recognizance in that behalf doth appear; and whereas the said *A.B.*, &c. (*here shortly state the breach committed*): These are therefore in Her Majesty's name to require you to summon the said *A.B.*, *C.D.* and *E.F.*, to appear before this court at on the day of next at

o'clock in the forenoon, to show why the said several sums which they have respectively acknowledged themselves to owe to Our said Lady the Queen should not be levied on their several goods, lands, and other property to the use of Her said Majesty, according to the tenor and effect of the said recognizance. And have you there this summons.

By order of court,

Secretary.

G.

Warrant of Distress on a forfeited Recognizance.

In the District Court of

To the Fiscal of the province, or his lawful deputy.

You are hereby required in Her Majesty's name forthwith to levy and make of the goods, lands, and property of *A.B.* of the sum of , and of the goods, lands, and property of *C.D.* of , and of *E.F.* of , the sum of each, of lawful money of this colony, which said several sums they the said *A.B.*, *C.D.*, and *E.F.* have acknowledged, by a certain recognizance now filed of record in this court, to owe to Our Lady the Queen. And you are also further required to levy and make of the goods, lands, and property of the said *A.B.*, *C.D.*, and *E.F.*, or of any of them, the further sum of for the costs in this behalf incurred. And have the said money before this court on the day of to render unto Her Majesty the said debt, and to defray the said costs incurred in the recovery thereof. And have you there this warrant.

By order of court,

Secretary.

19th September 1855.

99.

No. 5 of 1856.

To give Jurisdiction to Police Courts over Offences punishable under Ordinances No. 3 of 1836, No. 17 of 1840, and No. 26 of 1852, and to amend the Law relating to the Protection of the Salt Revenue.

Preamble.

Whereas it is expedient to empower police courts to try and determine prosecutions for offences against the Ordinances No. 3 of 1836, entitled "For consolidating and amending the Laws for the Protection of His Majesty's Revenue derived from Salt;" No. 17 of 1840, entitled "To make further provision for the Protec-

tion of Her Majesty's Revenue derived from Salt;" and No. 26 of 1852, entitled "To make other provisions respecting the Sale of Salt;" and also to amend in certain respects the law relating to the protection of the salt revenue: It is enacted as follows:

Police courts to have jurisdiction over offences against the Ordinances No. 3 of 1836, No. 17 of 1840, and No. 26 of 1852.

1. The several police courts shall have power and jurisdiction to try and determine all prosecutions instituted in such courts for the breach of any provision of the Ordinances No. 3 of 1836, No. 17 of 1840, and No. 26 of 1852, committed wholly or in part within their respective districts, and on conviction of the offender to award any punishment to which he shall have become liable for the offence of which he has been convicted.

On conviction of offender, court to declare forfeiture.

2. Whenever any person shall be convicted of an offence against any provision of the said Ordinances, and the confiscation of any salt, or of any earth, sand, or water impregnated with salt, or of the apparatus used in or for the manufacture of salt, or of the cart, boat, vessel, animal, or other conveyance or thing employed in the illicit removal thereof, is declared by the said Ordinances, or either of them, or by this Ordinance, to be a consequence of the offence of which such person shall be convicted, it shall be lawful for the court before which he shall have been convicted, at the time of passing sentence, to declare and adjudge such salt, or earth, sand, or water impregnated with salt, or apparatus for the manufacture of salt, or such cart, boat, vessel, animal, or other conveyance or thing, to be forfeited, and to condemn the same, whatever the amount or value thereof: Provided always, that it shall be lawful for the Queen's Advocate, if he shall think fit, to institute separate proceedings of a civil nature for the recovery of any such forfeiture; and the acquittal of any person charged with any such offence shall not be a sufficient reason why such proceedings should not be instituted, or why, having been instituted, they should be abated, or why such forfeiture should not be recovered.

Proviso.

Conveyances used in the illicit removal of salt confiscated.

3. Every cart, boat, vessel, animal, or other conveyance or thing employed or used in the removal of salt contrary to the provisions of the Ordinances No. 3 of 1836 and No. 17 of 1840 shall be confiscated.

Minimum penalty on offences against section 7th of Ordinance No. 3 of 1836.

4. The pecuniary penalty imposed on conviction of an offence against the 7th section of the Ordinance No. 3 of 1836, shall in no case be less than one shilling, anything therein contained to the contrary notwithstanding.

5. Has had its effect.

10th September 1856.

100.

No. 8 OF 1856.

To facilitate the Recovery of Judgments in District Courts.

WHEREAS it is expedient to make further provision with respect to the appearance of the defendant, in civil actions, before district courts, and the proceedings of the plaintiff in default of such appearance: It is enacted as follows:

Preamble.

1. The service of the summons to the defendant, in any action before a district court, wherever it may be practicable, shall, as heretofore, be personal; but it shall be lawful for the plaintiff to apply from time to time, on affidavit, to the court out of which the summons issued, and in case it shall appear to such court that reasonable efforts have been made to effect personal service, and either that the summons has come to the knowledge of the defendant or that he wilfully evades service of the same, and has not appeared thereto, it shall be lawful for such court to order that a copy of the summons be posted by the Fiscal upon some conspicuous part of the court-house premises, and that the plaintiff shall thereupon be at liberty to proceed as if personal service had been effected, subject to such conditions as to the court may seem fit.

Proceedings where personal service of summons cannot be effected, but defendant knows thereof or evades service.

2. In all cases where the defendant resides within the jurisdiction of the court, and the claim is for a debt or liquidated demand in money, with or without interest, arising upon a contract express or implied, as for instance, on a bill of exchange, promissory note, or cheque, or other simple contract debt, or on a bond or contract in writing for a liquidated amount of money, or on a guarantee where the claim against the principal is in respect of such debt or liquidated demand, bill, cheque, or note, the plaintiff shall be at liberty to make, or require the proper officer of the court to make, upon the summons and copy thereof, an indorsement of the particulars of his claim, in the form (A.) contained in the schedule to this Ordinance, or to the like effect.

Indorsement of the particulars of debts or liquidated demands may be made on summons.

3. In case of non-appearance by the defendant within four days after the return day of the summons, when the summons is endorsed in the form herein-before provided, it shall be lawful for the plaintiff, on filing an affidavit of personal service of the summons, or an order of the court for leave to proceed under the provisions of this Ordinance, at once to sign final judgment in the form (B.) contained in the schedule to this Ordinance (on which judgment no appeal shall lie), for any sum not exceeding the sum indorsed on the summons, together with interest at the rate specified, if any, to the date of the judgment, and a sum for costs to be forthwith taxed by the Secretary; and the plaintiff may, upon such judgment issue execution at the expiration of eight days from the last day for appearance, and not before: Provided always, that

Final judgments upon summons so indorsed, in default of appearance.

Proviso.

it shall be lawful for the court, either before or after final judgment, to let in the defendant to defend upon an application, supported by satisfactory affidavits accounting for the non-appearance, and disclosing a defence upon the merits, on such terms as to the court shall seem just.

Appearance may be entered at any time before judgment.

4. The defendant may appear at any time before judgment, and if he appear after the time specified, either in the summons, or in any order to proceed as if personal service had been effected, he shall, after notice of such appearance to the plaintiff or his proctor, as the case may be, be in the same position as to pleadings and other proceedings in the action as if he had appeared in time:

Proviso.

Provided always, that a defendant appearing after the time appointed by the summons shall not be entitled to any further time for pleading or any other proceeding than if he had appeared within such appointed time.

Appearance by the defendant in person to give an address at which proceedings may be served.

5. Every appearance by the defendant in person shall give an address, at which it shall be sufficient to leave all notices and other proceedings not requiring personal service, and if such address be not given the appearance shall not be received or entered; and if an address so given shall be illusory or fictitious, or uncertain and vague, the appearance shall be irregular, and may be set aside by the court, and the plaintiff may be permitted to proceed by sticking up the proceedings at the court-house premises, without further service.

Mode of appearance to summons.

6. The mode of appearance to every summons shall be by delivering a memorandum, in writing, to the secretary of the district court out of which such summons issued, dated on the day of the delivery thereof, or by an entry on the record made by the Secretary at the request of the defendant, according to the following form, or to the like effect:

"*A.*, Plaintiff, against *C.D.* *or* against *C.D.* and another, *or* against *C.D.* and others,	The Defendant, *C.D.* appears in person, *or* *E.F.*, Proctor for *C.D.*, appears for him.

[*If the defendant appears in person, here give his address, as thus, No.* 15, *Main Street, Pettah, Colombo; or, House of Meera Lebbe Markar, Marandahn, Colombo; or, Garden, Polwatte, in the village of Cotta, in Salpitty Korle.*]

Entered the day of 185 ."

Proceedings where only some of the defendants appear to a summons so indorsed.

7. In any action brought against two or more defendants where the summons is indorsed in the form herein-before provided, if one or more of such defendants only shall appear, and another or others of them shall not appear, it shall and may be lawful for the plaintiff to sign judgment against such defendant or defendants only as shall not have appeared, for the amount due by him or them, and to issue execution thereupon, in which case he shall be taken to have abandoned his action against the defendant or defendants who shall have appeared; or the plaintiff may, before issuing such execution, proceed with his action against such defendant or

defendants as shall have appeared, in which case the judgment obtained against the other defendant or defendants who shall not have appeared shall operate and take effect in like manner as a judgment by default obtained before this Ordinance came into operation.

8. After entering appearance, if the defendant shall make default in answering or rejoining, as the case may be, it shall be lawful for the plaintiff, in any case in which service of the notice of motion for judgment by default is required to be personal, to apply from time to time, on affidavit, to the court in which the suit is pending; and in case it shall appear to such court that reasonable efforts have been made to effect personal service, and either that the notice has come to the knowledge of the defendant, or that he wilfully evades service of the same, it shall be lawful for such court to order that a copy of such notice be left by the Fiscal at the address given by the defendant, and that the plaintiff shall thereupon be at liberty to proceed as if personal service of such notice had been effected.

Proceedings where personal service of notice of judgment for default of answering, &c., cannot be effected.

9. A special trial roll shall be kept in every district court of cases of the nature mentioned or referred to in the second section of this Ordinance, in which issue has been joined; and it shall be competent for the judge of such court to order the said cases to be set down for hearing on such days, and on the day fixed for the hearing of any such case to direct the same to be called on for trial in such order as to him shall appear best calculated to promote the ends of justice, any rule or practice of the said court to the contrary notwithstanding: Provided, however, that the parties to any such case shall have received reasonable notice of the day of hearing.

Special trial roll of money cases to be kept.

10. Has had its effect.

SCHEDULE.

A.

Indorsement on Summons.

The following are the particulars of the plaintiff's claim:

		£	s.	d.
1853.	June 1st. Two months' rent to this day of a house at Colpetty - -	10	0	0
„	August 6th. A bullock bandy and pair of bullocks - - - -	7	10	0
„	September 15th. Money received by defendant - - - - -	15	0	0
		32	10	0
	Paid - - -	8	0	0
	Balance due - -	24	10	0

Or,

		£	s.	d.
1853.	To bread supplied between the 1st January 1855 and the 1st January 1856 - - - - - -	18	0	0

[*If any account has been delivered it may be referred to with its date, or the plaintiff may give such a description of his claims as to prevent the necessity of an application for particulars of demand.*]

Or,

50*l.* principal and interest due on a bond dated the day of , for the payment of 40*l.* and interest.

Or,

100*l.* due on a covenant in a deed dated the day of , to pay 100*l.*

Or,

45*l.* on a bill of exchange for 50*l.*, dated the day of , accepted, *or* drawn, *or* endorsed, by the defendant.

Or,

30*l.* on a guarantee dated the day of , whereby the defendant guaranteed the due payment by *E.F.* of goods supplied or to be supplied to him.

[*In cases where interest is payable may be added,* "the plaintiff also claims interest on £ of the above sum from the date of the summons until judgment."]

N.B.—Take notice, that if a defendant served with this summons within the jurisdiction of the court do not appear according to the exigency thereof the plaintiff will be at liberty to sign final judgment for any sum not exceeding the sum above claimed (with interest at the rate specified), and for his costs to be taxed by the Secretary, and to issue execution at the expiration of eight days from the last day for appearance.

B.

In the district court of
on the day of A.D. 185 .

[*Day of signing the judgment.*]

Whereas *A.B.* in his own person (*or* by his proctor) sued out of this court a summons against *C.D.*, indorsed according to the Ordinance No. of 1856, as follows:

[*Here copy indorsement.*]

And whereas the said *C.D.* has not appeared; therefore it is considered that the said *A.B.* recover against the said *C.D.* together with £ for costs of suit.

16th October 1856.

101.

No. 10 OF 1856.

To provide for the Settlement of Claims to Exemption from Taxation of Temple Lands in the Kandyan Provinces, and for the due Registration of all Lands belonging to such Temples.

Preamble.

WHEREAS by the proclamation of the 21st November 1818, all lands then the property of Bhuddhist temples in the Kandyan provinces were declared to be exempt from all taxation whatever; and by subsequent proclamations of the 18th September 1819, and 21st May 1822, the persons having the charge or superintendence of such temples were required to register the lands thereunto belonging within the time appointed by the said proclamations; and the certificate of such registration to be thereupon granted by the revenue commissioner or agent of Government was declared to be the sole sufficient proof that such lands were exempted from taxation: And whereas the said register was never completed, and great doubts exist as to what lands belong to the said temples and should be exempted from the tax leviable on other lands of the same description; and it is necessary for the protection of the revenue that measures should be taken for the speedy settlement, upon just grounds, of all claims on the part of such temples to exemption from taxation of the lands belonging thereto, and for ascertaining and defining the extent of all lands belonging to such temples, and making a correct registration thereof: And whereas it is therefore expedient that commissioners should be appointed to carry into effect the provisions of this Ordinance: It is enacted as follows:

Short title of Ordinance.

1. In citing this Ordinance in any instrument or proceeding, it shall be sufficient to use the expression "The Temple Lands Registration Ordinance, 1856."

2. Has had its effect.

Governor to appoint commissioners to carry the Ordinance into effect.

3. From the time when this Ordinance shall commence and take effect there shall be within this island one or more person or persons, not exceeding three in number, who shall be the commissioner or commissioners for carrying into effect the provisions of this Ordinance, and for executing the several powers hereby conferred upon them, and such commissioner or commissioners shall from time to time be appointed by the Governor, by a commission or commissions under the public seal of this island.

Commissioners to take oath of office.

4. Every such commissioner shall, before proceeding to execute the duties imposed on him by this Ordinance, take and subscribe before some justice of the peace the oath following:

"I, *A.B.*, do swear that I will faithfully, impartially, and "honestly, according to the best of my skill and ability, execute "and perform the several trusts, powers, and authorities vested

"and reposed in me as a commissioner by virtue of 'The Temple "Lands Registration Ordinance, 1856,' according to equity and "good conscience, and without favour or affection, prejudice or "partiality, to any person or persons whomsoever. And I do "further swear that I will not directly or indirectly receive or "knowingly permit any other person to receive any fee or reward "for anything done or to be done under the said Ordinance, "excepting only such as the said Ordinance appoints or authorizes. "So help me God."

Oath to be enrolled in the Supreme Court.

Which oath so taken and subscribed by each commissioner shall be enrolled in the Supreme Court.

Commissioner not to be purchaser of land.

5. No such commissioner shall be capable, whilst holding such commission, of being a purchaser, either in his own name or in the name or names of any person or persons, of any lands within any part of this island to which the provisions of this Ordinance extend.

Governor to appoint clerk and other officers;

and to make rules for giving effect to the Ordinance.

Proviso.

6. It shall be lawful for the Governor from time to time to appoint a clerk to the said commissioners, and such other ministerial officers as to him may appear necessary for enabling such commissioners duly to execute the provisions of this Ordinance; and it shall be lawful for the said Governor, with the advice of the Executive Council, from time to time to frame and establish such rules and regulations as to him may appear necessary for carrying into effect the several provisions of this Ordinance: Provided such rules and regulations shall not be repugnant to or inconsistent with this Ordinance. And it shall also be lawful for the said Governor, with the advice aforesaid, to direct to be paid out of the Colonial Treasury to such commissioners, clerks, and other officers, such reasonable salaries or remuneration as he may think fit.

Time and place of the sittings of the commissioners, how appointed and notified.

Proceedings of commissioners in the investigation of claims, &c. to be with open doors.

7. The commissioners appointed by virtue of this Ordinance shall hold their sittings at any such place and at such times as shall from time to time be appointed by them, and as shall be found convenient and necessary for the despatch of business; and public notice in writing under the hand of such commissioners of the place and time so to be appointed shall be given by publication in the "Government Gazette," and in such other manner as such commissioners shall direct, and as may appear best adapted for giving publicity thereto; and the proceedings of the said commissioners in the investigation of any claims or the settlement of any disputes, in virtue of the provisions of this Ordinance, shall be carried on and the decisions and orders of such commissioners shall be pronounced and declared with open doors.

Commissioners to inquire into, ascertain, and set out the boundaries of temple lands in the Kandyan provinces.

8. So soon as this Ordinance shall come into operation the commissioners appointed by virtue thereof shall and they are hereby authorized and required to inquire into the boundaries of all lands, of whatsoever description the same may be, belonging or alleged to belong to or in the possession of all wihares and dewales within any district of the Kandyan provinces, to which the privilege of exemption from taxation of temple lands extends; and in case it shall appear to such commissioners that the boun-

daries of the same respectively are not sufficiently ascertained and distinguished, such commissioners shall and they are hereby authorized and required to ascertain, determine, set out, and fix the same respectively ; and after the said boundaries shall be so ascertained, determined, set out, and fixed, the same shall and are hereby declared to be the boundaries of such lands respectively, so far as regards any question between such temples and Her Majesty's Government, touching any claim to exemption from taxation, or touching the boundaries or extent of any lands whatsoever claimed by any such temple : Provided always, that before such commissioners proceed to ascertain and set out such boundaries, they shall and are hereby required to give public notice by writing under their hands in the English and Singhalese languages, to be affixed in the most public places in the district within which such lands are situated ; and also by writing to be delivered to or left at the last or usual places of abode of the persons in charge of the temples to which such lands are alleged to belong, three weeks at least before the time of setting out such boundaries, of their intention to ascertain, determine, set out, and fix the same respectively.

Before doing so, three weeks public notice of their intention to be given.

9. So soon as public notice shall have been given by such commissioners of their intention to ascertain, determine, set out, and fix the boundaries of all temple lands as aforesaid, within any district or village, all persons who shall have or claim to have any right to or in any lands situated within such district or village, belonging or alleged to belong to any wihare or dewale, shall deliver or transmit to such commissioners, within such time as they shall appoint for that purpose, a schedule in writing signed by the person having charge of the revenues of the temple to which such lands are alleged to belong, which schedule shall be, as near as is material, in the form following :

So soon as such public notice is given, persons claiming lands on behalf of temples to lodge with commissioners a schedule of such claims.

FORM OF CLAIM.

Description of the land.	A tract of paddy land, with a chena adjoining (*or a tract of forest land, or as the case may be*), situated in the village of in , and known by the name of
Boundaries and computed extent of the land.	Bounded north by , &c., &c. and computed to contain
Name and situation of the temple to which the land is alleged to belong.	
In what right the claim is made.	In right of a sannas dated (*or as the case may be*).
Name and residence of the priest or other person in charge of such land.	(Signed) *A.B.*, residing in the village of

10. Provided that it shall and may be lawful for any such person, instead of delivering to such commissioners such schedule

Instead of giving in a

written claim, parties may appear before the Commissioners and state the same verbally. Such verbal statements are to be recorded and signed.

as aforesaid, to appear in person before such commissioners within such time as may be allowed for that purpose, and to state verbally to such commissioners the particulars of his claim required to be stated in such schedule ; and it shall be the duty of such commissioners, or one of them, thereupon to take down in writing, in the form required by the preceding section, the particulars of such claim, and to require such person to sign the same, or, in case of inability, the same shall be signed by the commissioner by whom such claim has been reduced to writing.

Claims to be open to the inspection of all persons interested.

11. All the said claims (whether delivered by the claimants to such commissioners, or by them reduced into writing), shall at all reasonable times, until after the commissioners have made registration of the lands claimed as herein-after provided, be open to the inspection and perusal of all parties interested or claiming to be interested in the premises, their respective attornies or agents, who may take copies thereof or extracts therefrom respectively ;

Proceedings if claim objected to.

and if any person interested or claiming to be interested in the premises shall have any objection to offer to any such claim, the particulars of such objection shall be reduced into writing and signed by him, and shall be delivered to the said commissioners at or before some meeting of such commissioners to be by them appointed for that purpose ; or such objection shall be verbally stated at any such meeting to such commissioners, and by them reduced into writing, and signed by the party objecting, or in case of his inability to sign, by the commissioner by whom such objection has been reduced into writing ; and no such objection as aforesaid shall afterwards be received, unless for some legal disability, or special cause to be allowed by the said commissioners.

Commissioners to decide questions of exemption from taxation, and boundaries of temple lands.

12. It shall be lawful for such commissioners, and they are hereby required to inquire and determine the right and title of any such temple to exemption from taxation in respect of any lands alleged to belong thereunto, and what are the true and proper boundaries, name, and description of the lands belonging to any such temple ; but nothing herein contained shall authorize such commissioners to hear and determine any difference or dispute between any such temple and any person (except differences or disputes between such temple and Our Lady the Queen), touching the right or title to any land of any such person ; or to determine any question as to the validity or legal effect and construction of any grant, conveyance, mortgage, or other instrument, in virtue of which any such person claims to be entitled to such property :

Disputes between temple and private persons not to delay the commissioners.

Provided, however, that no such difference or dispute and that no such question as aforesaid shall impede or delay the commissioners in the execution of the powers vested in them by this Ordinance; but the claims to exemption from taxation shall be inquired into and determined, the boundaries of such temple lands shall be set out, the survey herein-after mentioned shall be proceeded in, and the register of such lands shall be made, notwithstanding such difference, dispute, or question.

Instruments dated prior to 1st February 1840 produced

13. If any person claiming on behalf of any such temple any land situated in this island in virtue of any grant, sannas, or other instrument made and executed prior to the 1st day of February

1840, and of which no public registry exists, shall produce to the said commissioners the grant, sannas, or other instrument in virtue of which such person claims the said property or part thereof, or any right or interest therein, the said commissioners shall, and they are hereby required to examine and inquire strictly into the genuineness and authenticity of such grant, sannas, or other instrument, and if they shall be satisfied that the same is genuine they shall cause a true copy thereof to be made and certified under their hands, and to be then delivered to the secretary of the proper district court, to be by him preserved in the district court, in like manner as the duplicates of other deeds affecting land; and no such grant, sannas, or other instrument dated prior to the said 1st day of February 1840, and of which no public registry exists, which shall not have been produced to such commissioners in manner above mentioned, on or before the day on which the lands mentioned or described in such instrument shall have been registered as herein-after provided, and of which a certified copy shall not have been forwarded to the district court for the purpose aforesaid, shall after such registration be admitted in any court as evidence of the title of such temple to the lands therein mentioned or referred to, in any suit with the Crown touching the right to such lands, or to exemption from taxation in respect thereof.

to the Commissioners to be copied, and copies filed in district court.

No such instrument, not produced, to be afterwards received in evidence.

14. In the execution of the powers vested in such commissioners by virtue of this Ordinance, they shall be guided by equity and good conscience only, and by the best evidence that can or may be procured, although not such as would be required or be admissible in ordinary cases; nor shall they be bound by the strict rules of law in any case, or by any technicalities or legal forms whatever; and it shall be lawful for the said commissioners, if they think proper, to examine on oath the parties, or any of them, making or opposing any claim investigated or inquired into by such commissioners, touching any of the matters in dispute.

Commissioners to be guided by equity, and not bound by the strict rules of law;

and may examine the parties on oath.

15. It shall be lawful to and for the said commissioners from time to time, as they shall see occasion, by any writing under their hands, to summon and require any person to appear before them at any time and place in such writing to be appointed, to testify the truth touching any claim or any matter in dispute between any proprietors or interested persons, or otherwise relating to the execution of the powers given by this Ordinance, and to produce in evidence all deeds, instruments, surveys, or writings in the possession or control of any such person, in so far as the same shall be necessary for the due investigation of any such claim or dispute, or for enabling the said commissioners duly to execute the powers given by this Ordinance; and to cause a copy of such writing to be served on such person required to give evidence or to produce such deeds, instruments, surveys, or writings, or to be left at his usual or last place of abode; and every person so summoned who shall not appear before such commissioners pursuant to such summons (without assigning some reasonable excuse for not appearing), or appearing shall without sufficient cause refuse to be sworn or examined on oath (which oath such commissioners are hereby empowered and required to administer), or shall without

Commissioners to have powers to summon witnesses.

Penalty for not obeying the summons.

sufficient cause refuse or wilfully neglect to produce any such deeds, instruments, surveys, or writings, shall for every such neglect or refusal forfeit and pay such sum of money, not exceeding five pounds sterling, as such commissioners shall think fit and order; and it shall be lawful for the commissioners in such order to direct payment of any such fine to be made into the police court of the district in which such person resides; and if payment shall not be made as directed the said police court shall proceed to enforce the same, and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if the said fine had been imposed by such court.

Fine how recovered.

Witness not bound to travel more than ten miles.

16. Provided that no witness summoned to attend before such commissioners shall be bound or obliged to travel more than ten miles from his usual place of abode for the purpose of such attendance.

Evidence to be reduced to writing and signed.

17. All evidence given before such commissioners shall be taken down in writing in presence of the witnesses respectively giving the same, and shall at the time of their examination be signed by them, or in case of their refusal or inability to sign, by the commissioner by whom the same has been reduced to writing; and if any person shall in any examination, affidavit, or deposition to be had or taken in pursuance of this Ordinance before any such commissioners, knowingly and wilfully swear any matter or thing which shall be false, every such person so offending shall, on conviction thereof before any competent court, be deemed guilty of perjury, and shall suffer the like pains and penalties as persons guilty of wilful and corrupt perjury are now subject and liable to.

Persons swearing falsely to be deemed guilty of perjury.

Commissioners may order witnesses residing at a distance, or unable to attend, to be examined on oath by justice of the peace.

Duties of such justices of the peace.

18. In case any party or any witness shall reside at a greater distance than ten miles from the place where the sittings of any such commissioners are appointed to be holden, or if any such person shall by reason of age, sickness, or infirmity be unable to travel, it shall be lawful for such commissioners to order, by writing under their hands, that such person shall be examined and cross-examined, upon oath, before any justice of the peace to be named in such order, as to any matter concerning which such commissioners require to be informed; and all justices of the peace in this island are hereby authorized and required, upon the receipt of any such order, to summon such person before him, and to examine him upon oath, and to transmit such examination under his hand to the said commissioners.

Commissioner may order the person in charge of any temple land to put up landmarks.

On failure or refusal commissioners may have them erected, and recover double

19. It shall be lawful for such commissioners, whenever they shall see occasion, by writing under their hand, to order and direct the person in charge of any temple land, the boundaries of which have been ascertained and set out by such commissioners under the provisions of this Ordinance, to put up or make such fences, ditches, mounds, or other marks on the land of such description and at such places as to such commissioners shall appear necessary; and if any person shall refuse or neglect to put up or make such landmarks, and at such places as the said commissioners shall have ordered, within one month from the date of such order, it shall be lawful for such commissioners to cause such landmarks to be put up or made, and to recover from such person twice the

amount of the costs necessarily incurred therein; and the said costs shall be recovered in like manner as any fine imposed on any witness under the 15th clause of this Ordinance.

the cost of erection.

20. Every person who shall wilfully remove, destroy, or efface, or attempt to remove, destroy, or efface, any landmark which shall have been put up or made under the authority and for the purposes of this Ordinance, shall be guilty of an offence, and be liable, on conviction thereof in any competent court, to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any period not exceeding one year.

Penalty for removing or destroying landmark.

21. So soon as conveniently may be after the said commissioners shall have ascertained and set out the boundaries of all lands belonging to any such temples within any district, or within any convenient subdivision of a district, or within any village, as the case may be, such commissioners shall form and draw up, or cause to be formed and drawn up, a register thereof, which shall be in the form hereunto annexed, marked A., and shall express the situation, description, and name of the several lands registered; the name and situation of the temple to which the same belong; the boundaries, so far as the same can be described by existing landmarks; the extent, so far as the same is known; the names of the adjoining properties, or if they have no names, the names of the adjoining proprietors or occupiers; and the dates and description of any deeds or instruments produced to such commissioners relative to such property: Provided, however, that it shall be lawful for the Governor, with the advice of the Executive Council, to direct that the said registry shall be kept according to such other form, or shall contain such other or such additional information as may be found expedient.

Commissioners to draw up a registry of lands.

22. The said commissioners shall, at the request of the person in charge of the revenues of any such temple, grant and deliver to him a certificate under their hands, in the form hereunto annexed, marked B., that the lands therein named or described have been registered as the property of such temple; and such certificate shall be sufficient proof of the exemption of such lands from taxation, and no other proof of exemption shall in any case be admitted or received in any court.

Commissioners to grant certificates of registration.

23. The said register shall be preserved in the office of the government agent of the province in which such lands shall be situated, to the end that recourse may be had thereto by any person interested therein, for the inspection or perusal thereof; and the said register and the several matters and things therein mentioned and contained shall to all intents and purposes be binding and conclusive upon and against Her Majesty and any temple concerned or interested in the same, or in any of the lands therein registered as aforesaid; and any map or plan which shall be made in virtue of the provisions of this Ordinance, the better to describe the properties mentioned in such register, shall be deposited with such register in the office of such government agent, and shall be deemed and construed in every respect as and for part of the said register.

Register to be preserved in the cutcherry.

Map of the lands to be deposited with the register in the cutcherry.

Commissioners to cause survey and plan to be made.

24. So soon as conveniently may be after such commissioners shall have ascertained and set out the boundaries of all such temple lands within any district, or subdivision of a district, or village, as aforesaid, they shall give notice thereof in writing to the Surveyor General, who shall cause a true and particular survey, admeasurement, and plan of all such lands to be made and reduced into writing, by such person as he shall nominate and appoint; and the number of acres or decimal parts of an acre contained in all the lands so surveyed, and of each particular tract of paddy fields, chena, forest, or other allotment therein contained at the time of making such survey and admeasurement, shall be therein set forth and specified; and such plan shall be delivered to such commissioners to be by them deposited with the register in the office of the Government Agent as aforesaid.

Expenses of the survey how paid.

25. Subject to the limitations and exceptions herein-after contained, one moiety of the expense of making such survey, admeasurement, and plan shall be defrayed by the person in charge of the lands surveyed, and shall be a charge upon such lands, and the other moiety of such expense shall be defrayed out of the public treasury.

Temple not liable for expenses of survey if it possesses an authenticated plan and there is no dispute as to boundaries.

26. If the person in charge of any temple land shall have in his possession and shall produce to such commissioners, prior to such survey being made, a plan of such land, authenticated by the Surveyor General of this Island, and if it shall not be necessary in the opinion of such commissioners for the settlement of any dispute respecting the boundaries of such land that the same should be surveyed, then and in such case the expense of any survey of such land which may be made under the authority and for the purposes of this Ordinance shall be defrayed out of the public treasury.

Powers of the commissioners may be exercised by any one of them.

27. All the powers and duties hereby vested in or imposed upon such commissioners shall and may be exercised and discharged by any one of such commissioners.

Penalty for obstructing commissioners or surveyor.

28. The said commissioners, surveyors, and all persons acting under their orders, shall at all times be entitled to enter upon the lands of any person or body corporate, for the purpose of ascertaining any boundaries, or putting up any landmarks, or making any survey, or for any other purpose contemplated by this Ordinance; and any person who shall wilfully resist, obstruct, hinder, or molest, and any person who shall incite, procure, or assist any other to resist, obstruct, hinder, or molest any commissioner, surveyor, or other person acting in the discharge of any duty or the performance of any act which they or any of them shall be authorized or required to perform under any of the provisions of this Ordinance, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

A.

Register of Temple Lands, Kandyan Provinces.

Korle. District of .

Letter. Page.

Name and Situation of Temple.	Name of Person in charge.]	PROPERTY.					Description of Deeds produced.
		Name and Description.	Situation.	Boundaries.	Estimated extent.	Names of adjoining Properties or Proprietors.	

B.

Certificate of Registration.

We, the undersigned commissioners appointed under "The Temple Lands' Registration Ordinance, 1856," hereby certify that the following lands have been registered by us under the provisions of the said Ordinance, as the property of the Temple, at in the district of .

Description of Land.	Name.	Reference to Register.

Given under our hands at the day of 185 .

(*Signatures of Commissioners.*)

16th October 1856.

102.

No. 15 OF 1856.

For giving effect to certain Rules for District Courts relating to Arrest and Sequestration before Judgment in Civil Suits.

Preamble.

WHEREAS by the Ordinance No. 8 of 1846, entitled "For "rendering the operation of Rules of Court contingent on their "enactment by the Legislature," it is provided, that whenever any general rule of court, framed by the Judges of the Supreme Court, shall have been transmitted to the Governor, in the manner directed by the said Ordinance, such rule shall be laid by the said Governor in the form of an Ordinance before the Legislative Council to be considered and dealt with by the said Council in such and the same manner as any other Ordinance; and that no general rule framed by the said judges shall operate or take effect until the same shall have been duly enacted: And whereas the Judges have transmitted to the Governor, in the manner directed by the said Ordinance, the general rules in the schedule to this Ordinance relating to arrest and sequestration before judgment in civil suits in the district courts: It is enacted as follows:

Certain rules relating to arrest and sequestration before judgment in district courts, confirmed.

1. The general rules in the schedule to this Ordinance annexed relating to arrest and sequestration before judgment in civil suits in the district courts are hereby confirmed, and shall come into operation and take effect from and after the first day of December one thousand eight hundred and fifty-six.

THE SCHEDULE.

It is ordered that from and after the first day of December 1856, the second, third, and nineteenth clauses of the first section of the general rules and orders, dated 1st October 1833, be revoked.

I. If a plaintiff in any action, either at the commencement thereof, or at any subsequent period before judgment, shall by his own affidavit and examination if necessary satisfy the district judge that he has a sufficient cause of action against the defendant to the amount of ten pounds or upwards, or has sustained damage to that amount, and that he has no adequate security to meet the same, and that he does verily believe, and if he shall show by the oath or affidavit of any third person that there is probable cause for believing that the defendant is about to quit the Island, unless he be forthwith apprehended, such judge may order a warrant to arrest the body of the defendant until he shall give bail in, or make deposit of such an amount as the said judge shall consider reasonable and adequate, and which amount the said judge, at the time of making the said order, shall set out on the face thereof; and the said warrant shall be in the form No. 1, and may be

executed within one calendar month from the date thereof, including the day of such date, and not afterwards: Provided that if the plaintiff shall be in possession of any security in part he, or the person making the application on his behalf, shall, on pain of punishment as for contempt of court as herein-after directed for such false statement and concealment, set forth the same particularly in his application, and the amount thereof, and which amount shall be deducted from the amount of security to be required from the defendant.

II. The defendant being arrested on such warrant shall be brought up before the court in custody of the Fiscal, unless he shall give reasonable security (form No. 2) to the Fiscal to appear and answer the plaintiff's libel, in which case the Fiscal shall be authorized to discharge him. If he is brought before the court under the warrant, or if he appears in discharge of the bail taken by the Fiscal, he must give bail (form No. 3) to abide by and perform the judgment of the court, and pay any sum or sums which may be awarded against him, or to surrender himself or be surrendered by his sureties, to be charged in execution for the same; or if he is unable or unwilling to give such bail he shall be committed to prison (form No. 4) until he complies.

III. The defendant may, instead of giving bail as is herein-before directed, deposit with the Fiscal, or in court, the sum mentioned in the warrant, and thereupon he shall be discharged from custody, and a minute of the same shall be made on the judgment; and the sum so deposited shall be applied in satisfaction of the judgment, should the same pass against the defendant, and the surplus, if any, shall be refunded to the defendant. (See form No. 5 for his release.)

IV. If a plaintiff in any action, either at the commencement thereof or at any subsequent period before judgment, shall by his own affidavit and examination if necessary satisfy the district judge that he has a sufficient cause of action against the defendant to the amount of ten pounds or upwards, or has sustained damage to that amount, and that he has no adequate security to meet the same, and that he does verily believe, and if he shall show by the oath or affidavit of any third person, that there is probable cause for believing that the defendant is fraudulently alienating his property to avoid payment of the said debt or damage, such judge may order a mandate (form No. 6) to issue to the Fiscal, directing him to seize and sequester the houses, lands, goods, monies, securities for money and debts wheresoever or in whose custody soever the same may be within his district, to such value as the court shall think reasonable and adequate, and to detain or secure the same, to abide the further orders of the court; and if the property in dispute consists of houses or land, and the plaintiff shall satisfy the court that the defendant would be unable to make satisfaction for the issues, rents, and profits thereof, if judgment should pass for the plaintiff, or if the court be satisfied that sequestration will tend to prevent new or further litigation, then and in any such case such issues, rents, and profits thereof shall

be sequestered; provided that such sequestration shall in all cases be dissolved on the defendant giving security to the satisfaction of the court equal to the value of the property sequestered.

V. Before making the order for a warrant of arrest, or a mandate of sequestration, the judge shall require the plaintiff to enter into a bond (form No. 7), with or without sureties, in the discretion of the district judge, to the effect that the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of such arrest or sequestration; and it shall be competent to the court to award such damages as costs of suit either to the defendant or to those in whose possession such property shall have been so sequestered.

VI. Any plaintiff or third person wilfully making a false statement in the course of any of the proceedings aforesaid may be punished as for a contempt of court; provided that nothing herein contained shall deprive any party aggrieved by such false statement of any other redress which may be open to him according to law.

FORM No. 1.

Warrant of Arrest.

Plaintiff against *Defendant.* } In the District Court of

To the Fiscal of the District of

Arrest and seize , the above-named defendant, and keep him safely, so that you have his body before this court forthwith to answer , plaintiff, in a suit to recover [*for debt and costs, or for damages and costs, as the case may be*], whereof the said plaintiff has filed his libel in this court, unless and until the said defendant shall give you good and sufficient security to the amount of £ , to appear and answer the plaintiff's said claim, and to abide by and perform the judgment of this court, or to surrender himself, or be surrendered, to be charged in execution for the same; and, on his giving such security, you are hereby authorized to discharge the said defendant, and have here this mandate on the return day thereof.

By order of the court,

Secretary.

Memorandum to be subscribed to the Warrant.

This warrant is to be executed within one calendar month from the date thereof, including the day of such date, and not afterwards.

Indorsements to be made on the Warrant.

Bail for £ by order of [*naming the judge making the order*], dated this day of [*date of the order*].

This writ was issued by *E.F.* of , attorney for the plaintiff (*or* plaintiffs) within named; or, This writ was issued in person by the plaintiff within named, who resides at [*set out the plaintiff's residence with such reasonable certainty as the case admits of*].

FORM No. 2.

Bond to the Fiscal for Appearance.

Plaintiff against *Defendant.* } In the District Court of

Know all men by these presents, that we and are held and firmly bound to in the sum of £ , for the payment of which we bind ourselves, jointly and severally, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that if the above bounden do appear before this district court on the day of , to answer a suit for , then this obligation to be void, otherwise to remain in full force.

Signed, sealed, and delivered in court day of

FORM No. 3.

Plaintiff against *Defendant.* } In the District Court of

Know all men by these presents, that we and are held and firmly bound unto in the sum of £ , for the payment of which we bind ourselves, jointly and severally, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that if the above bounden do appear before the district court on the day of , to answer to in a suit for , and shall pay any sum or sums of money which shall be awarded by the court, and shall abide by and perform the judgment of the court, or shall surrender himself, or be surrendered by his bail above named, to be charged in

execution, then this obligation to be void, otherwise to remain in full force.

Signed, sealed, and delivered in court,
day of

FORM No. 4.

Commitment for Mesne Process.

Plaintiff
against } In the District Court of
Defendant.

To the Fiscal of the District of

Receive into your custody the body of , taken under a warrant of mesne process, dated , at the suit of , and keep him safely until he give good and sufficient security in the sum of £ to stand and abide the judgment of the court on the premises and pay all such sum or sums of money as shall be decreed, or surrender himself or be charged in execution.

FORM No. 5.

Release.

Plaintiff
against } In the District Court of
Defendant.

To the Fiscal of the District of

Release from your custody the body of , taken at the suit of under a warrant of arrest in mesne process, dated the [*or, taken under a warrant of arrest in execution, dated*], if for no other cause detained.

Dated

By order of court,

Secretary.

FORM No. 6.

Plaintiff
against } In the District Court of
Defendant.

Whereas it appears that is fraudulently alienating his property to avoid the payment of his debt; and whereas the plaintiff above named has verified his demand to the satisfaction of this court: You are therefore commanded to seize and sequester the houses, lands, goods, monies, securities for

money and debts of the said defendant to the value of £ , wheresoever or in whose custody soever the same may be within this district; and to retain and secure the same until the defendant shall appear and abide the order of this court, or until you receive further directions from this court herein ; and to give due notice, in writing, to all persons in whose possession or power such property of the defendant, whether moveable or immoveable, shall be, of this sequestration ; and requiring them to reserve and retain the same, and all issues, rents, profits, and interests accruing therefrom, to abide the order of this court. And that you do, on the day of next, inform this court what property you shall have seized and sequestered, with the true value of the same, and in whose possession the same respectively were at the time of seizure ; and have you there this mandate.

By order of court.

Secretary.

FORM No. 7.

Plaintiff against *Defendant.* } In the District Court of

Know all men by these presents, that we and are held and firmly bound in the sum of £ , for the payment of which we bind ourselves, jointly and severally, our heirs, executors, and administrators, firmly by these presents.

The condition of the obligation is such that if the above bounden do pay the sum or sums of money which shall be awarded by the court to the defendants as costs, damages, or otherwise, then this obligation to be void, otherwise to remain in full force.

Signed and delivered in court, this
day of

5th November 1856.

103.

No. 18 OF 1856.

To prevent the leaving of Carts on the Colombo and Kandy Road.

WHEREAS it is expedient to make further provision for the prevention of obstructions to the traffic upon, and of injury to, the road from Colombo to Kandy, arising from the practice of leaving carts thereon : It is enacted as follows: Preamble.

Carts.

Penalty for leaving carts, &c. on the Colombo and Kandy road.

1. Any person who shall leave, or permit to be left, on the road between Colombo and Kandy, or on the side of such road, any cart or other carriage whatever, without the oxen, horses, or other animals being yoked or harnessed thereto, unless such cart or carriage shall have been accidentally broken down there, and in case of such accident, for a longer time than may be necessary for its removal, shall be liable to a fine not exceeding ten shillings, anything contained in the 13th clause of the 63rd section of the Ordinance No. 8 of 1848, entitled "To make provision for the formation and improvement of the means of communication in this Island," to the contrary notwithstanding.

Offences in what courts cognizable.

2. Every offence against this Ordinance may be inquired into, tried, and determined either by the police court of the district in which the offence was committed, or by the nearest police court on the line of road in the direction such cart or carriage may have been travelling.

Carts, &c. of offenders may be detained and sold.

3. It shall be lawful for any inspector of police, police headman, or other constable, and for any overseer of the road appointed by the Governor, to take charge of any cart or other carriage which may have been left on the said road contrary to the provisions of this Ordinance, and of the oxen, horses, or other animals belonging thereto, and to deposit or keep the same in some place of safe custody, until the penalty to which the person having had charge thereof may become liable, has been paid; and if such penalty, and any expenses incurred in feeding and watching such oxen, horses, or animals, shall not be paid within ten days from the day of the conviction, it shall be lawful for the police court before which the case shall have been heard to order that such cart, carriage, oxen, horses, or other animals shall be sold for the purpose of satisfying such penalty and expenses aforesaid.

Ordinance may be applied to other public roads.

4. It shall be lawful for the Governor, with the advice of the Executive Council, by any proclamation to be by him from time to time for that purpose issued and published in the "Government Gazette," to declare that the provisions contained in this Ordinance shall extend to any other public road in this Colony, whenever it shall appear to the said Governor and Council that a sufficient number of halting places have been constructed along the same; and thereupon its several provisions shall apply and extend to and may be enforced in reference to any public road mentioned in such proclamation, as fully to all intents and purposes as if such road had been specially mentioned in this Ordinance.

Limitation of prosecution.

5. No prosecution shall be instituted against any person for an offence against this Ordinance unless the same shall be commenced within one month from the commission of the offence.

Informer's share of fine.

6. It shall be lawful for the court before which any conviction under this Ordinance shall take place to award to the person who may have given information of the offence such share of any penalty actually recovered, not exceeding the half of the sum recovered, as the court may deem fit.

7. Has had its effect.

22nd November 1856.

104.

No. 2 OF 1857.

For regulating the Establishment and Management of Electric Telegraphs in Ceylon.

WHEREAS the Government of this Colony is about to establish lines of electric telegraph within the same, and it is expedient to make provision for regulating the establishment and management of such telegraphs; it is enacted as follows: Preamble.

1. This Ordinance may be cited for all purposes as "The Electric Telegraph Ordinance, 1857." Short title of Ordinance.

2. Has had its effect.

3. It shall be lawful for any officer in the employ of the Government in the electric telegraph department, and for the servants, workmen, and labourers employed by or under such officer, at all times, and with all necessary carriages and animals, and other means, to enter upon all or any lands, and to put up thereon any posts which may be required for the support of any electric telegraph wire; and to fasten or attach to any tree growing on such land any bracket or other support for such wire; and to cut down any tree or branch which may in any way injure, impede, or interfere with any line of electric telegraph; and also severally to do and perform all other acts, matters, and things necessary for the purposes of establishing, constructing, repairing, or improving any electric telegraph, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Ordinance. Power to enter on lands, put up posts, &c., cut down trees, and do other acts necessary for the construction of the electric telegraph.

4. Every person who shall sustain any loss or damage by reason of the exercise of the power conferred by the preceding section upon the parties therein specified shall be entitled to receive from the Government a reasonable compensation for the same; provided that he shall make application in that behalf to the principal officer in charge of the electric telegraph department within thirty days after the loss or damage was sustained. Compensation for injury to property. Proviso.

5. Any railway company, on being required so to do by the Governor, with the advice of the Executive Council, shall permit the Government to establish upon the land of such company adjoining the line of railway a line of electric telegraph, and shall give every reasonable facility for establishing, using, and repairing the same; and such company shall not be entitled to demand any compensation for or by reason thereof. Government may establish telegraph on land of railway company without giving any compensation.

6. The Governor may from time to time, with the advice of the Executive Council, frame and establish rules for the conduct of electric telegraphs established by Government, not inconsistent with this Ordinance, and thereby prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted; and all such rules shall be published Governor to establish rules for the conduct of Government telegraphs.

in the next "Government Gazette," after the same have been established.

Government not responsible for loss or damage.

7. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the electric telegraph department failing to transmit, or to transmit with accuracy, any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

No person to intrude into a telegraph office.

8. If any person shall, without permission, enter into a Government telegraph office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or impede any such officer or servant in the performance of his duty, every such person shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding ten pounds.

Punishment for cutting the line, &c.

9. If any person shall wilfully cause, or attempt to cause, any interruption to the transmission of signals along a line of electric telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line, or any instrument or apparatus, or by any other means whatsoever, he shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment with or without hard labour, for any period not exceeding two years, or to fine, or to both.

Injuring posts, &c.

10. If any person shall wilfully or negligently damage or injure any post or any portion of the line of any Government electric telegraph, he shall be guilty of an offence, and be liable on conviction thereof, to any fine not exceeding five pounds.

Punishment for fraudulently omitting to transmit messages, or for disclosing secret messages.

11. If any person, being in the employ of Government in the electric telegraph department, shall fraudulently or maliciously secrete, make away with, alter, or omit to transmit any message which he may have received for transmission, or shall fraudulently or maliciously disclose any message so received by him and directed to be kept secret, every such person shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment, with or without hard labour, for any period not exceeding two years, or to fine, or to both.

Punishment for misconduct.

12. If any person, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or shall loiter or make delay in the transmission or delivery of any message, every such person shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding ten pounds.

Punishment for sending messages without payment to Government.

13. If any person, being in such employ, shall transmit by the electric telegraph any message upon which the prescribed charge has not been paid, with intent thereby to defraud, he shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment, with or without hard labour, for any period not exceeding two years, or to fine, or to both.

Punishment for transmitting

14. If any person shall fraudulently or maliciously transmit, or cause to be transmitted, by an electric telegraph established by

Government, a message which he knows to be false or fabricated, he shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment, with or without hard labour, for any period not exceeding two years, or to fine, or to both. fabricated messages.

15. Any offence against this Ordinance, though the same may be beyond the jurisdiction of a police court, by reason of the amount of punishment to which the offender is liable, shall and may nevertheless be inquired into, tried, and punished by the police court of the district in which the offence was committed, wholly or in part, on the presentation of a certificate to such court signed by the Queen's Advocate, or some competent Deputy Queen's Advocate, or by the principal officer in charge of the electric telegraph department, to the effect that the person signing such certificate is content that the offence shall be prosecuted before such court; and thereupon it shall be competent to such police court, on the conviction of the offender, to award so much of the punishment assigned to the offence as police courts are empowered by law to award in the exercise of their ordinary jurisdiction. Offences against this Ordinance may be prosecuted before police courts.

19th August 1857.

105.

No. 5 of 1857.

To amend the Ordinance No. 5 of 1854.

Whereas it is expedient to amend the Ordinance No. 5 of 1854, entitled "To consolidate and amend the Laws against Offences relating to the Coin:" It is enacted as follows: Preamble.

1. Repealing clause.

2. This Ordinance may be cited for all purposes as "The Coining Prevention Ordinance, 1857." Short title of Ordinance.

3. Has had its effect.

4. Where "the Queen's current gold or silver coin," or "the Queen's current copper coin," shall be mentioned in any part of this Ordinance, the same shall be deemed to include and denote any gold or silver coin, or any copper coin respectively, lawfully current in this colony; and any of the Queen's current coin which shall have been gilt, silvered, washed, coloured, or cased over, or in any manner altered so as to resemble, or be apparently intended to resemble or pass for any of the Queen's current coin of a higher denomination, shall be deemed and taken to be counterfeit coin, within the intent and meaning of those parts of this Ordinance in which mention is made of "false or counterfeit coin resembling, "or apparently intended to resemble or pass for any of the Queen's "current gold or silver coin;" and where the having any matter in the custody or possession of any person is in this Ordinance Interpretation as to current coin, counterfeit coin, and criminal possession.

expressed to be an offence, if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in any dwelling-house, or other building, room, field, or other place, open or enclosed, whether belonging to or occupied by himself, or not, and whether such matter shall be so had for his own use or benefit, or for that of another, every such person shall be deemed and taken to have such matter in his custody or possession, within the meaning of this Ordinance.

The company's rupee and its subdivisions to be deemed current coin in this colony.

5. And, for the avoiding of all doubts, it is declared and enacted that for the purposes of this Ordinance the several silver coins mentioned in the Minute by the Governor of the 26th day of September 1836, coined at the mints within the territories of the East India Company, namely—

The Company's rupee,
The Company's half rupee,
The Company's quarter rupee,

shall be deemed and taken to be silver coins lawfully current in this Colony, anything contained in the Regulation No. 8 of 1825, entitled "For declaring the legal and established currency of the "Island of Ceylon to be the silver and copper current coin of "Great Britain, and also the Ceylon silver and paper rixdollar, "and the copper subdivisions thereof already current therein," to the contrary notwithstanding.

Punishment for counterfeiting gold or silver coin.

Offence complete though coin not finished.

6. If any person shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin, every such person shall be liable to imprisonment at hard labour for any period not exceeding five years; and every such offence shall be deemed to be complete although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Punishment for colouring counterfeit coin or pieces of metal with intent to make them pass for gold or silver coin.

Or for colouring or altering genuine coin with intent to make it pass for a higher coin.

7. If any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or of silver, wash, colour, or case over any coin whatsoever resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or if any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or of silver, wash, colour, or case over any piece of silver or copper, or of coarse gold or coarse silver, or of any metal or mixture of metals respectively, being of a fit size and figure to be coined, and with intent that the same shall be coined into false and counterfeit coin resembling, or apparently intended to resemble or pass for any of the Queen's current gold or silver coin; or if any person shall gild, or shall, with any wash or materials capable of producing the colour of gold, wash, colour, or case over any of the Queen's current silver coin, or file, or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold coin; or if any person shall gild or silver, or shall, with any wash or materials capable of producing the colour of gold or of silver, wash, colour, or case over any of

the Queen's current copper coin, or file or in any manner alter such coin, with intent to make the same resemble or pass for any of the Queen's current gold or silver coin, every such person shall be liable to imprisonment at hard labour for any period not exceeding five years.

Punishment for impairing gold or silver coin.

8. If any person shall impair, diminish, or lighten any of the Queen's current gold or silver coin, with intent to make the coins so impaired, diminished, or lightened pass for the Queen's current gold or silver coin, every such person shall be liable to imprisonment at hard labour for any period not exceeding two years.

Punishment for defacing coin.

9. If any person shall wilfully deface any of the Queen's current gold, silver, or copper coin by stamping, engraving, or otherwise marking thereon any word, letter, or figure, or by bending, breaking, or denting the same, or in any other manner whatsoever, whether such coin shall or shall not be thereby diminished or lightened, every such person shall be liable to imprisonment at hard labour for any period not exceeding one year.

Defaced coin not a legal tender.

Punishment for uttering defaced coin.

10. No tender of payment in money made in any of the Queen's current coin so defaced as aforesaid shall be allowed to be a legal tender, and if any person shall knowingly tender, utter, or put off any such coin so defaced, he shall be liable to a fine not exceeding one pound.

Punishment for buying or selling, &c. counterfeit gold or silver coin, or importing it from abroad.

11. If any person shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, at or for a lower rate or value than the same by its denomination imports or was coined or counterfeited for; or if any person shall import into this colony from beyond the seas any false or counterfeited coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit; every such person shall be liable to imprisonment at hard labour for any period not exceeding five years.

Punishment for uttering counterfeit gold or silver coin.

12. If any person shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, every such person shall be liable to imprisonment at hard labour for any period not exceeding one year; and if any person shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and such person shall at the time of such tendering, uttering, or putting off have in his possession, besides the false or counterfeit coin so tendered, uttered, or put off, one or more piece or pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin; or shall, either on the day of such tendering, uttering, or putting off, or within the space of ten days then next ensuing, tender, utter, or put off, any more or other false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of

For uttering or having other counterfeited coin in possession, or uttering twice in ten days.

the Queen's current gold or silver coin, knowing the same to be false and counterfeit; every such person shall be liable to imprisonment at hard labour for any term not exceeding two years; and if any person who shall have been convicted of any of the offences herein-before in this section mentioned shall afterwards commit any of the said offences, such person shall be liable to imprisonment at hard labour for any period not exceeding five years.

Punishment for second offence of uttering after a previous conviction.

Punishment for having three or more pieces of counterfeit coin, with intent to utter them.

For the second offence.

13. If any person shall have in his custody or possession three or more pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold or silver coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same, every such person shall be liable to imprisonment at hard labour for any period not exceeding two years; and if any person so convicted shall afterwards commit the like offence, such person shall be liable to imprisonment at hard labour for any period not exceeding five years.

Punishment for having coining tools in possession.

14. If any person shall knowingly and without lawful authority (the proof of which authority shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the party accused) have in his custody or possesion any tool, stamp, mould, or instrument, in or upon which there shall be made or impressed, or which shall make or impress, or which shall be intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any of the Queen's current gold or silver coin, or any part or parts of both or either of such sides; or if any person shall knowingly and without lawful authority (the proof whereof shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly and without lawful excuse (the proof whereof shall lie on the party accused) have in his custody or possession any tool, instrument, or engine, adapted and intended for the marking of coin round the edges with graining, or other marks or figures apparently resembling those on the edges of any of the Queen's current gold or silver coin, such person knowing the same to be so adapted and intended as aforesaid; or if any person shall knowingly and without lawful authority (the proof whereof shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly and without lawful excuse (the proof whereof shall lie on the party accused) have in his custody or possession any press for coinage, or any cutting engine for cutting round blanks out of gold, silver, or other metals, such person knowing such press to be a press for coinage, or knowing such engine to have been used, or to be intended to be used, for or in order to the counterfeiting of any of the Queen's current gold or silver coin; every such person shall be liable to imprisonment at hard labour for any period not exceeding five years.

Of offences relating to copper coin.

15. If any person shall falsely make or counterfeit any coin resembling, or apparently intended to resemble or pass for, any of

the Queen's current copper coin; or if any person shall knowingly and without lawful authority (the proof of which authority shall lie on the party accused) make or mend, or begin or proceed to make or mend, or buy or sell, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the party accused) have in his custody or possession any instrument, tool, or engine adapted and intended for the counterfeiting of any of the Queen's current copper coin; or if any person shall buy, sell, receive, pay, or put off, or offer to buy, sell, receive, pay, or put off, any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin, at or for a lower rate or value than the same by its denomination imports, or was coined or counterfeited for; every such person shall be liable to imprisonment at hard labour for any period not exceeding two years; and every offence of making or counterfeiting any such coin shall be deemed to be complete, although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected. And if any person shall tender, utter, or put off any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin, knowing the same to be false or counterfeit; or shall have in his custody or possession three or more pieces of false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current copper coin, knowing the same to be false or counterfeit, and with intent to utter or put off the same; every such person shall be liable to imprisonment at hard labour for any period not exceeding one year.

Punishment for issuing copper tokens.

16. If any person shall make or issue, or cause to be made or issued, or permit or suffer to be made or issued on his behalf, any piece of copper, or mixed metal composed in part of copper, of whatever value the same may be, as a token for money, or as purporting that the bearer or holder thereof is entitled to demand any value denoted thereon, either by letters, words, figures, marks, or otherwise, whether such value is to be paid or given in money or goods, or in any manner whatsoever, every such person shall be liable for every token so made or issued, or procured or permitted to be made or issued, to a fine not exceeding five pounds.

No copper tokens to be circulated.

17. No piece of copper, or of any mixed metal composed partly of copper, of whatever value the same may be, shall pass or circulate as a token for money, or as purporting that the bearer or holder thereof is entitled to demand any value denoted thereon, either by letters, words, figures, marks, or otherwise, whether such value is to be paid or given in money or goods, or other value, or in any manner whatsoever; and if any person shall circulate or pass, as for any nominal value in money or goods, any such token, he shall be liable for every such token so circulated or passed, whether such person shall be or have been concerned in the original issuing or circulation thereof, or shall only be the

Punishment for circulating.

Issuer liable for payment.

holder or bearer thereof for the time being, to a fine not exceeding ten shillings: Provided that nothing herein contained shall be construed to prevent any person from presenting any such token for payment to the original issuer thereof, or to discharge or excuse any such original issuer from his liability to pay the same.

Sections 16 and 17 not to extend to the current copper coin of this colony.

18. Nothing in the two preceding sections contained shall be construed to extend to any copper coin lawfully current in this colony.

Provision for the discovery and seizure of counterfeit coin and coining tools, &c.

19. If any person shall find or discover in any place whatever, or in the possession of any person having the same without lawful excuse, any false or counterfeit coin resembling, or apparently intended to resemble or pass for, any of the Queen's current gold, silver, or copper coin, or any instrument, tool, or engine whatsoever, adapted and intended for the counterfeiting of any such coin, it shall be lawful for the person so finding or discovering, and he is hereby required, to seize the same, and to carry the same forthwith before some justice of the peace. And where it shall be proved on the oath of a credible witness before any justice of the peace that there is reasonable cause to suspect that any person has been concerned in counterfeiting the Queen's current gold, silver, or copper coin, or has in his custody or possession any such counterfeit coin, or any instrument, tool, or engine whatsoever adapted and intended for the counterfeiting of any such coin, it shall be lawful for such justice, by warrant under his hand, to cause any place whatsoever belonging to, or in the occupation, or under the control of such suspected person, to be searched, either in the day or in the night, and if any such counterfeit coin, or any such instrument, tool, or engine shall be found in any place so searched, to cause the same to be seized, and carried forthwith before the said justice, or some other justice of the peace; and all counterfeit coin, and all instruments, tools, and engines adapted and intended for the counterfeiting of coin, after they shall have been produced in evidence upon the trial, or when they shall have been seized and shall not be required to be produced in evidence, shall forthwith be delivered up to the Fiscal, to be by him dealt with in such manner as may be directed by the Governor.

Punishment for counterfeiting foreign gold or silver coin.

20. If any person shall make or counterfeit any coin not lawfully current in this colony, but resembling or apparently intended to resemble or pass for, any gold or silver coin of any foreign prince, state, or country, every such person shall be liable to imprisonment at hard labour for any period not exceeding three years, and every such offence shall be deemed to be complete, although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

Punishment for importing counterfeit foreign gold or silver coin.

21. If any person shall import into this colony from beyond the seas any false or counterfeited coin not lawfully current in this colony, but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country,

knowing such coin to be false or counterfeit, with intent to utter the same within this colony, every such person shall be liable to imprisonment at hard labour for any period not exceeding three years.

Punishment for uttering counterfeit foreign gold or silver coin.

22. If any person shall tender, utter, or put off any false or counterfeit coin not lawfully current in this colony but resembling or apparently intended to resemble or pass for any gold or silver coin of any foreign prince, state, or country, knowing the same to be false or counterfeit, every such person shall be liable to imprisonment at hard labour for any period not exceeding one year; and if any person who shall have been convicted of the offence herein-before in this section mentioned shall afterwards commit the said offence, such person shall be liable to imprisonment at hard labour for any period not exceeding two years.

Punishment for second offence of uttering foreign coin after previous conviction.

Punishment for counterfeiting foreign copper coin.

23. If any person shall falsely make or counterfeit any coin not lawfully current in this colony, but resembling or apparently intended to resemble or pass for any copper coin of any foreign prince, state, or country, or any other coin made of any metal or mixed metals of less value than the silver coin of any such foreign prince, state, or country, every such person shall be liable to imprisonment at hard labour for any period not exceeding one year; and every such offence shall be deemed to be complete although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected. And if any person shall tender, utter, or put off any false or counterfeit coin not lawfully current in this colony, but resembling or apparently intended to resemble or pass for any copper coin of any foreign prince, state, or country, or any other coin made of any metal or mixed metals of less value than the silver coin of any such foreign prince, state, or country, knowing such coin to be false or counterfeit, every such person shall be liable to imprisonment at hard labour for any period not exceeding six months; and if any person who shall have been convicted of the offence herein-before in this section mentioned shall afterwards commit the said offence, such person shall be liable to imprisonment at hard labour for any period not exceeding one year.

Punishment for uttering counterfeit foreign copper coin.

Punishment for second offence of uttering counterfeit foreign copper coin.

Punishment for having in possession three or more pieces of counterfeit foreign coin.

24. If any person shall without lawful excuse (the proof of which excuse shall lie on the party accused) have in his custody or possession three or more pieces of false and counterfeit coin of any kind or kinds resembling or apparently intended to resemble or pass for any coin or coins of any foreign prince, state, or country, every such person shall be liable to a fine not exceeding one pound for every such piece of false or counterfeit coin which shall be found in his custody or possession, and shall also forfeit and lose all such false or counterfeit coin, which shall be cut in pieces and destroyed by order of the court before which he shall be convicted.

Offences committed by

25. Where two or more persons acting in concert in different districts or jurisdictions shall commit any offence against this

several in concert in different districts, where to be tried, &c.

Ordinance, all or any of the said offenders may be dealt with, prosecuted, tried, and punished, and their offence laid and charged to have been committed in any one of the said districts or jurisdictions, in the same manner as if the offence had been actually and wholly committed within such one district or jurisdiction.

Principals in the second degree, and accessories, how punished.

26. In the case of any offence punishable under this Ordinance every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this Ordinance punishable, and may be charged in the information or complaint as a principal in the first degree ; and every accessory after the fact to any offence punishable under this Ordinance shall be punishable by imprisonment for such term as the court in its discretion shall award.

9th September 1857.

106.

No. 6 OF 1857.

An Ordinance to naturalize Joseph Viscardi.

9th September 1857.

107.

No. 7 OF 1858.

An Ordinance to naturalize George Sauer.

30th September 1858.

108.

No. 6 OF 1859.

An Ordinance for granting exclusive Privileges to Inventors.

Preamble.

WHEREAS it is expedient for the encouragement of inventors of new manufactures that certain exclusive privileges in their inventions should be granted to them in Ceylon : It is enacted as follows :

Short title of Ordinance.

1. This Ordinance may be cited for all purposes as the "Inventions Ordinance, 1859."

2. Has had its effect.

Inventor may petition for leave to file specification.

Form, &c. of petition.

3. The inventor of any new manufacture may petition the Governor for leave to file a specification thereof; every such petition shall be in writing, in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from Ceylon, by an authorized agent, and shall state the name, condition,

and place of residence of the petitioner, and the nature of the invention.

4. An *alien ami*, whether resident in Ceylon or not, may petition for leave to file a specification under this Ordinance.

An *alien ami* may petition.

5. Upon such petition the Governor may, with the advice of the Executive Council, make an order authorising the petitioner to file a specification of the invention: Provided always, that before making such order, the Governor shall refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner; the amount of fee, in case of dispute, to be settled by the District Court of Colombo in a summary manner.

Order to file specification.

Power to refer petition for inquiry and report.

6. If, within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed, in manner herein-after mentioned, the Governor, with the advice and consent of the Executive Council, may, in the form D. in the schedule to this Ordinance appended, under the public seal of the Island of Ceylon, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in Ceylon, and authorising others so to do, for the term of fourteen years from the time of filing such specification; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor, with the advice of the Executive Council, may think fit to direct, upon petition to be presented by such inventor, at any period, not more than one year and not less than six months, before the expiration of the exclusive privilege hereby granted.

Petitioner entitled to exclusive privilege for 14 years.

Extension of time.

7. An order authorising the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made, subject to such conditions and restrictions as the Governor, with the advice of the Executive Council, may think expedient.

Order to file specification may be made subject to conditions.

8. Every specification of an invention filed under this Ordinance shall be in writing, and shall be signed by the petitioner, and shall particularly describe and define the nature of the said invention, and in what manner the same is to be carried out.

Specification to be in writing, and to describe invention.

9. Every petition for leave to file a specification, and every specification filed under this Ordinance, shall be left with the Colonial Secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form or to the effect mentioned in the schedule hereunto annexed, marked A. and B. respectively; and if the inventor be absent from Ceylon, the petition and specification shall also be accompanied by a declaration, signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form

Petition and specification to be left with the Colonial Secretary, and to be accompanied by declaration.

Date of delivery to be endorsed on petition.

hereunto annexed, marked C ; the date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall be also recorded at the Office of the Colonial Secretary.

False statement in declaration punishable as perjury.

10. Any person who shall wilfully and corruptly make any false statement in any declaration required by this Ordinance, shall be liable to the pains and penalties of perjury.

Fees to be paid before filing.

11. No specification shall be filed until the petitioner shall have paid all fees payable under this Ordinance.

To be open to inspection.

12. The specification, or a copy thereof, shall be open at all reasonable times, at the office of the Colonial Secretary, to public inspection, upon payment of a fee of five shillings.

Book for the registry of petitions, specifications, &c.

13. A book shall be kept in the office of the Colonial Secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege; every specification and every such grant as aforesaid shall be numbered according to the order in which it is entered in such book, and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

Inspection of registry book.

Certified copy of entry to be given.

14. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of five shillings, and the said Colonial Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Certified copy to be primâ facie evidence.

15. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

When exclusive privilege does not attach.

16. No person shall be entitled to any exclusive privilege under the provisions of this Ordinance,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention in Ceylon ; or,

If the petitioner is not the inventor or importer thereof into Ceylon ; or,

If the specification filed does not particularly describe the nature of the invention, and in what manner the same is to be carried out.

Invention not publicly used or known before application to file specification to be deemed new invention.

Knowledge of invention fraudulently acquired.

17. An invention shall be deemed a new invention within the meaning of this Ordinance if it shall not, before the time of applying for leave to file the specification, have been publicly used in Ceylon ; the public use of an invention prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence ; provided the inventor shall, within six months after the commencement of such public use, apply for leave to file his specification, and shall not previously have

acquiesced in such public use: Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his licence in writing, shall not be deemed a public use thereof within the meaning of this Ordinance.

Public use by actual inventor.

18. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Ordinance shall have obtained Her Majesty's letters patent for the exclusive use of such invention in any part of the United Kingdom, but not extending to this island, shall petition the Governor for leave to file a specification of such invention, it shall be competent to the Governor, with the advice of the Executive Council, to make an order authorizing the petitioner to file a specification of the invention and exemplification of the letters patent granted to him; on this being done the petitioner shall be entitled to the sole and exclusive privilege of making, using, and selling the said invention in Ceylon for the term or terms mentioned in the 6th section; provided the petition for leave to file the specification shall state that such letters patent have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

Inventor having obtained patent in England may petition for it here.

Proviso.

19. And whereas it is expedient that sole jurisdiction over all actions, suits, and proceedings arising in respect of this Ordinance should be vested in the District Court of Colombo, to the exclusion of other courts having jurisdiction under the 24th and 29th sections of the letters patent of His late Majesty King William the Fourth, bearing date the 18th day of February 1833: And whereas by letters patent of Her present Majesty, bearing date the 28th day of January 1843, it is declared that it shall be competent to the Governor, by any law or Ordinance to be by him from time to time made, with the advice and consent of the Legislative Council, to make provision for the better administration of justice within this island, anything in the said letters patent of King William the Fourth to the contrary notwithstanding: It is therefore enacted, that the said District Court of Colombo shall have sole and exclusive jurisdiction over all such actions, suits, and proceedings as aforesaid, wheresoever the same may arise, and to the exclusion of all other district courts in the island, subject, however, to appeal as herein-after provided.

Exclusive jurisdiction vested in the District Court of Colombo.

20. In any suit for the infringement of such exclusive privilege, the plaintiff shall deliver with his libel particulars of the breaches complained of in the said suit, and the defendant, in pleading thereto shall deliver, with his answer, particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention; in like manner, upon any application to the said district court under the 22nd, 23rd, and 24th sections of this Ordinance, the applicant shall deliver particulars of the objections on which he means to rely; at the trial of any such suit or issue no evidence shall be allowed to be given in support of any alleged infringement or of

Particulars to be delivered.

any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid; if it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used, shall be stated in such particulars: Provided always, that it shall be lawful for the court in which the suit or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid, upon such terms as shall seem fit.

Defect in specification, &c., no defence to such action.

The actual use of an invention before date of petition a defence to such action.

21. No such suit shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such suit be defended upon the ground of a misdescription of the invention in the petition, unless the defendant shall show that he is the actual inventor or derives title from him.

Application to District Court of Colombo to declare exclusive privilege not to have been acquired on following grounds:

22. It shall be lawful for any person to apply by motion to the District Court of Colombo for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Ordinance, by reason of all or any of the objections following (to be specified in the rule), that is to say:

Invention not new.

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention; or,

Petitioner not the inventor, &c.

That the petitioner was not the inventor thereof, and in addition thereto, either that the applicant was the inventor, or that the inventor has dedicated or made known the invention to the public, or has acquiesced in the public use thereof; or,

Invention not described in specification.

That the specification filed does not particularly describe and define the nature of the invention, or in what manner the same is to be carried out; or,

Fraud in petition or specification.

That the petitioner has fraudulently inserted in the petition or specification, as part of his invention, something which was not new, or whereof he was not the inventor; or,

False statement in petition.

That the petitioner has wilfully made a false statement in his petition; or,

Fraudulent misdescription of part of invention in specification.

That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

Like application as to part of an invention on the following grounds:

23. Any person may in like manner apply to the said district court for a rule to show cause why that court should not declare that an exclusive privilege has not been acquired under the provisions of this Ordinance, in any part of the invention to be specified in the rule, by reason of all or any the objections following (to be specified in the rule), that is to say:

Such part of invention not new.

That such part of the invention was not new at the date of the petition for leave to file the specification; or,

That the petitioner was not the inventor of that part of the invention, and in addition thereto, either that the applicant was the inventor of that part, or that the inventor has dedicated or made known the same to the public, or has acquiesced in the public use thereof; or,

Petitioner not inventor of such part, &c.

That that part of the invention, and the manner in which it is to be carried out, is not sufficiently described and defined in the specification, and that such defect or insufficiency is injurious to the public.

Such part of invention not described in specification.

24. It shall be lawful for the Queen's Advocate or any Deputy Queen's Advocate to apply to the said district court for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor under the power herein-after reserved may in the judgment of the said Governor depend, should not be tried in the form of an issue directed by the said court; and if the rule be made absolute, the court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried and certify the result of such trial to the Governor. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said court.

Application by Queen's Advocate on breach of special condition.

25. Every exclusive privilege under this Ordinance shall cease if the Governor, with the advice of the Executive Council, shall declare, by notification in the "Government Gazette," that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall have been authorised to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the aforesaid district court, and if the Governor, with the advice of the Executive Council, shall thereupon declare that such exclusive privilege shall cease.

When exclusive privilege shall cease.

26. The said district court may, if it think fit, direct an issue for trial before the same court of any question of fact arising upon an application under sections 22, 23, and 24 of this Ordinance, and such issue shall be tried accordingly in a summary manner.

District Court may direct issue for trial.

27. If it shall appear to the said district court, at the hearing of any application under the provisions of sections 22 and 23 of this Ordinance, that by reason of any of the objections therein mentioned the said exclusive privilege in the invention, or in any part thereof, has not been acquired, the court shall give judgment accordingly, and shall make such order as to the costs of, and consequent upon, the application as it may think just; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Judgment.

28. If the court, at the hearing of any such application as last aforesaid, shall think that the petitioner has in the description of

Amendment of specification.

his invention in the petition or specification included something which, at the date of the petition, was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the said court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars, and thereupon the petitioner, his heirs, executors, administrators, or assigns shall, within the time limited by the court for the purpose, file a specification amended according to such order.

Misdescription in the petition, if not fraudulent, not to defeat the privilege.

29. An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such misdescription was fraudulent.

Entry in registry book of judgment, and declaring privilege not to have been acquired.

30. Whenever it shall be adjudged by the said district court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the Colonial Secretary shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book herein-before directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

31. If, upon proceedings instituted within two years from the date of a petition to file a specification, the inventor shall prove to the satisfaction of the said district court that the petitioner was not the inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this Ordinance, and to account for and pay over the profits thereof.

Service of proceeding.

32. A book shall be kept in the office of the Colonial Secretary (such book to be open to inspection without fee), wherein every person filing a specification under this Ordinance shall cause to be stated, under a number corresponding with the number of the specification, some place in Ceylon where service of any rules or proceedings, for the purpose of cancelling or revoking his exclusive privilege, may be made. Any person, partnership, or company, from time to time being proprietors of, or having shares or interests in, such exclusive privilege, shall cause to be entered in such book, under such number as aforesaid, their names, together with the name of some place for the service of such proceedings as aforesaid. All such rules and proceedings shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same, by entry in the said book,)

at the place last substituted, by delivering the same to any person resident at or in charge of such place; or, if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the court, by causing such rule or proceeding to be sent by post, by a registered letter directed to such person, partnership, or company at such place; and if any such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the court house, or in such other manner as the court may direct; provided that notice of any rule obtained or proceeding taken under either of the sections 22, 23, and 24 shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of this section, and it shall not be necessary to serve such notice on any other person.

Prerogative in respect to letters patent saved.

33. Nothing in this Ordinance contained shall abridge or affect the prerogative of the Crown, in relation to the granting or withholding the grant of any letters patent for inventions, or otherwise, or affect or interfere with any letters patent for an invention heretofore granted, or hereafter to be granted, by the Crown.

Right of appeal saved.

34. All decisions and orders of the District Court of Colombo made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist, or shall be hereafter made by law; and subject to the rules and limitations contained in the 52nd clause of the charter, any party or parties to any suit or proceeding under this Ordinance may appeal to Her Majesty, her heirs and successors, in her, his, or their Privy Council, from any final judgment, decree, or sentence of the Supreme Court, or against any rule or order made by such Supreme Court, and having the effect of a final or definite sentence.

Stamp on petition.

35. Every petition for leave to file a specification under the provisions of this Ordinance, or for the extension of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of 10*l*.

Interpretation.

36. In the construction of this Ordinance the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions:

The word "invention" shall include an improvement:

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture:

The word "inventor," when not used in conjunction with the word "actual," shall include the importer of an invention not publicly known or used in Ceylon:

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor or actual inventor, as the case may be:

The word "assigns" shall include grantees of the sole use or benefit in Ceylon of an invention, or of the sole use of an exclusive privilege for a limited time :

The words "Colonial Secretary" shall include any person acting as or for the Colonial Secretary :

The words "Queen's Advocate" shall include any person acting as or for the Queen's Advocate.

SCHEDULE.

FORM OF PETITION.

To the Governor of Ceylon.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under the Inventions Ordinance, 1859, sheweth,

That your petitioner is in possession of an invention for (*state the title of the invention*), which invention, he believes will be of public utility ; that he is the inventor or owner of the said invention (*or, as the case may be, the assignee, or the executor or administrator, or heir of the inventor or owner of the said invention*) ; and that the same is not publicly known or used in Ceylon to the best of his knowledge and belief (*or as the case may be, that he is the first importer into Ceylon of the said invention, and that the same is not publicly known or used in Ceylon*).

If letters patent have been obtained for the invention state according to the requirements of section 18.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of the Inventions Ordinance, 1859. And your petitioner, &c.

(Signed)

The day of

FORMS OF DECLARATION.

A.

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition*) ; that I believe the said invention will be of public utility ; that I am the inventor or owner of the said invention, (*or as the case may be, the assignee or executor, or administrator, or heir of the inventor or owner of the said invention ; or*, that I am the first importer of the said invention into Ceylon) ; and that the same is not publicly known or used in Ceylon to the best of my knowledge and belief, and that to the best of my knowledge and

belief my said invention is truly described in my petition for leave to file a specification thereof.

The day of

(Signed)

B.

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention*), which invention I believe will be of public utility ; that I am the inventor or owner of the said invention (*or, as the case may be, the assignee, or executor or administrator, or heir of the inventor or owner of the said invention; or,* that I am the first importer of the said invention into Ceylon), and that the same is not publicly known or used in Ceylon to the best of my knowledge and belief; and that to the best of my belief the instrument in writing under my hand hereunto annexed particularly describes and defines the nature of the said invention, and in what manner the same is to be carried out.

The day of

(Signed)

C.

I of do solemnly and sincerely declare that I have been appointed by the said his agent for the purpose of and I verily believe that the declaration purporting to be the declaration of the said marked ( ) was signed by him, and that the contents thereof are true.

The day of

(Signed)

FORM OF GRANT.

D.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.

(Signed) (*Signature of Governor.*)

To all to whom these presents shall come.

Greeting :

Whereas *A.B.*, of *C.D.*, has presented to us (*insert name of Governor*), Governor of Ceylon, a petition (numbered in the book of petitions for exclusive privilege in inventions in the Colonial Office), praying for leave to file a specification of a certain

invention, intituled (*here insert title of the invention*), and we have with the advice and consent of the Executive Council made an order, dated the day of 18 , authorizing the said *A.B.* to file a specification of the said invention: And whereas the said *A.B.* did on the day of 18 file a specification in accordance with the said order, and the same is entered in the book of specifications in the Colonial Office, and bears the number therein: And whereas the said Governor and the Executive Council are agreed that the said *A.B.* hath done all things to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described for the term of years: Now know ye that we, with the advice and consent of the Executive Council, do grant to the said *A.B.*, his heirs, executors, administrators, and assigns, the exclusive privilege of making, selling, and using (*as the case may be*) the said invention in the said specification described in Ceylon for the term of years, in terms of and subject to the provisions of the Inventions Ordinance, 1859 (*here insert any condition under which the grant is made*).

2nd November 1850.

109.

No. 9 of 1859.

An Ordinance for giving effect to certain Rules and Orders for the Courts of Requests.

Preamble.

Whereas by the Ordinance No. 8 of 1846, entitled "For "rendering the Operation of Rules of Court contingent on their "enactment by the Legislature," it is provided that whenever any general rule of court, framed by the judges of the Supreme Court, shall have been transmitted to the Governor, in the manner directed by the said Ordinance, such rule shall be laid by the said Governor, in the form of an Ordinance, before the Legislative Council, to be considered and dealt with by the said Council in such and the same manner as any other Ordinance; and that no general rule framed by the said judges shall operate and take effect until the same shall have been duly enacted: And whereas the judges have transmitted to the Governor, in the manner directed by the said Ordinance, the general rules and orders in the schedule to this Ordinance annexed:

It is therefore enacted, that the general rules and orders in the schedule to this Ordinance annexed are hereby confirmed, and shall come into operation and take effect from and after the first day of January one thousand eight hundred and sixty.

SCHEDULE.

A.

General Rules and Orders for the Courts of Requests.

It is ordered, that the general rules and orders for courts of requests promulgated in the Supreme Court on the twenty-first day of October one thousand eight hundred and forty-four, shall on and from the first day of January one thousand eight hundred and sixty cease to be in force; and that in lieu thereof the following shall on and from such day be the rules of practice for regulating the procedure in such courts.

§ 1. *Commencement of Suit.*

1. Any person desirous of bringing an action in a court of requests shall either himself state his case to the chief clerk of such court, who shall enter the same by way of plaint in a separate sheet of paper, or he shall deliver to the said clerk a plaint written on a separate sheet, and signed by himself or his proctor or advocate. **Plaint how preferred.**

2. Every such plaint shall bear date of the day and year on which it is entered, and state the names and residences of the parties, and the substance of the action intended to be brought, and shall be, as near as is material, in the form and according to the precedents contained in the schedule of forms hereunto annexed (B.) **Form of plaint.**

3. Every such plaint shall be numbered in the order in which it shall be entered or delivered in, and shall form the commencement of the action and of the record thereof. **The "record."**

4. Upon such plaint being entered or delivered as aforesaid, the chief clerk shall, by a note on the said record, appoint a day for the appearance of the defendant accordingly, and shall inform the plaintiff or his proctor or advocate thereof; and shall also issue a summons for the appearance of the defendant, stating therein the names and residences of the parties, and the substance of the action, and the number of the plaint on the margin thereof; and every such summons shall be in the form C. in the schedule of forms hereunto annexed. **Summons.**

§ 2. *Process.*

5. All summonses, orders, and other process issuing from any court of requests, shall be signed by the chief clerk of such court, and shall be transmitted by such clerk to any Fiscal or Deputy Fiscal throughout the island for service or execution: Provided that, where it shall be made to appear to the commissioner that service of any summons, order, or other process (excepting writs of execution and of possession) may be more conveniently or speedily effected otherwise than by transmitting the same to a Fiscal or Deputy Fiscal, it shall be lawful for such commissioner, by a note on the back of such summons, order, or process, to direct that the same may be served by any person therein named. **Service of process, through whom.**

Mode of service.

6. Every such summons, order, or process shall be accompanied with a copy, or a translation thereof, in the language of the party on whom the same is intended to be served, which copy or translation shall be delivered either personally to such party, or to some person of his household apparently sixteen years old, at his dwelling-house or place of business; but if such dwelling-house or place of business is kept closed in order to prevent such delivery, then the said copy or translation may be affixed on some conspicuous part thereof; or if the said party have not a known place of residence or of business, it shall be left at his last known place of residence or of business; and every such delivery, affixing, or leaving of any summons, order, or process, as respectively aforesaid, shall be deemed good service thereof.

Service in case of partners.

7. Provided that where two or more persons are partners in trade, and jointly sue or are jointly sued as such, the like service upon one of them shall be deemed good service as against the other or others of them.

Misdescriptions not to vitiate the process.

8. And no misnomer or misdescription of any person or place in any such summons, order, or process shall vitiate the same, so that the person or place be therein described so as to be commonly known, and so that such misnomer or misdescription be not calculated to mislead the party served therewith.

Service, how proved.

9. The service or execution of any such summons, order, or other process as aforesaid, may be proved by affidavit purporting to be sworn before any person having by law the right to administer oaths, and the return thereof shall be, as near as is material, in the form and according to the precedents contained in the schedule of forms hereunto annexed (D.)

Form of return.

§ 3. *Proceedings on Appearance.*

Admission by the defendant.

10. On the day named in the summons, if the plaintiff shall appear, the defendant shall be called upon to answer the plaint; and if he shall admit the claim of the plaintiff, the chief clerk or the commissioner shall enter such admission on the record in the form E. in the schedule of forms hereunto annexed, and shall cause the same to be signed by the defendant; provided that where a defendant resides at a distance from the courthouse, or cannot conveniently attend, he may forward his admission to the chief clerk, signed by himself, in the presence and under the attestation of some proctor or justice of the peace, and upon any such admission as respectively aforesaid the commissioner shall enter judgment against him.

Answer.

11. But if the defendant shall deny such claim, he shall either himself state his answer to the chief clerk, who shall enter the same on the record, or he shall deliver to him an answer in writing, signed by himself, or his proctor or advocate.

Form of answer.

12. Every such answer shall bear date of the day and year on which it is entered or delivered, and shall admit or deny, or confess and avoid, the cause of action in the plaint, and shall clearly and concisely state the defence intended to be relied on; and every such answer shall be, as near as is material, in the form

and according to the precedents contained in the schedule of forms hereunto annexed (F.)

13. The parties may thereupon be examined either by the commissioner, or by each other (if the commissioner shall consider such examination necessary), with the view of ascertaining the points at issue between them, and of dispensing with any unnecessary evidence.

Examination to ascertain issues.

14. Immediately after the answer, or the examination above provided for, the parties shall furnish the chief clerk with a list of their witnesses and of their documentary evidence respectively; and no witness shall be called nor any documents admitted at the trial other than those appearing in such list, unless the commissioner on cause shown shall see fit to direct otherwise.

List of witnesses and documents.

15. The chief clerk shall thereupon, by a note on the record, fix a day for the trial of the cause, and apprise the parties or their proctor or advocate thereof; and all causes so set down for trial shall be entered in their proper order in a separate book, to be for that purpose kept by the said clerk, and shall be taken up for trial in the order in which they are so entered: Provided, however, that it shall be competent for the commissioner, upon cause shown, to advance any cause and try the same before its turn.

Fixing the cause for trial.

Proviso.

§ 4. *Proceedings on Default.*

16. If, upon the day of the return of the summons, or upon any day appointed for the trial of the cause, the plaintiff shall not appear or sufficiently excuse his absence, the cause shall be struck off, and a non-suit entered against the plaintiff: Provided always, that if the plaintiff shall not appear when called upon, and the defendant shall admit the claim of the plaintiff, the commissioner shall enter judgment for the plaintiff according to law.

In case of non-appearance of plaintiff, or on failure in proof, non-suit.

Proviso.

17. If, upon the return day of the summons, or upon any day appointed for the hearing of the cause, the defendant shall not appear or sufficiently excuse his absence, the commissioner, upon due proof of service of the summons, notice, or order, requiring such appearance, may enter judgment by default against the defendant: Provided, however, that in all cases wherein the title to, interest in, or right to the possession of land, shall be in dispute, and in any other cases in which the commissioner shall deem it necessary or expedient to hear evidence in support of the plaintiff's claim, he shall order him to adduce such evidence on any day to be appointed for that purpose; and after hearing such evidence the commissioner shall give such judgment on the merits as justice shall require, and without reference to the default that has been committed.

On default of appearance or answer by defendant, judgment.

Proviso.

18. But if the defendant shall, within a reasonable time after such judgment or order, by affidavit or otherwise, satisfy the commissioner that he was prevented from appearing in due time by accident or misfortune, or by not having received sufficient information of the proceedings, and that he did not absent himself for the purpose of avoiding service of the summons or notice, and that he has a good and valid defence on the merits of the case, then the

Judgment by default may be opened up, in certain cases.

commissioner may set aside such judgment or order, and any proceedings had thereon, and may admit the defendant to proceed with his defence, upon such terms as to costs and notice to the plaintiff as the commissioner may think fit.

§ 5. *Trial.*

Record of the proceedings.

19. A full and complete record shall in all cases be kept of the examination of the parties, the evidence of the witnesses, and of all the other proceedings had in the cause.

The commissioner may amend pleadings and proceedings.

20. It shall be lawful for the commissioner at all times to amend, or to allow the amendment of, all defects or errors in any pleadings or proceedings in a cause, which amendments shall be made with or without costs, and upon such terms as to the commissioner may seem fit.

Attendance of parties.

21. It shall be lawful for the commissioner in any case in which he shall be satisfied that the examination of any party would conduce to the ends of justice, to require the personal attendance of any such party, provided such attendance can be reasonably obtained; and if need be to postpone the hearing or further hearing of the cause, in order to secure the personal attendance of such party; and every notice requiring such personal attendance shall be in the form G. in the schedule of forms hereunto annexed.

Mutual examination of parties.

22. And every party to a suit being in attendance, whether upon such requirement or not, may be examined *vivâ voce* by the commissioner, or by the opposite party, or his proctor or advocate, but not upon oath: Provided that no questions shall be put to such party which shall not be strictly relevant to the matter in issue, nor any answers required from him which may have the effect of criminating him.

Attendance of witnesses.

23. The process of the said courts for compelling the attendance of witnesses shall be by subpœnas, with or without a clause requiring the production of documents in their possession or control; and every such subpœna shall be, as near as is material, in the form H. in the schedule of forms hereunto annexed.

Postponement of trial.

24. Wherever the commissioner shall be satisfied, by affidavit or otherwise, that either party is not ready to proceed to trial by reason of the absence of any material witness (such witness not being kept away by collusion), or for other sufficient cause, it shall be lawful for such commissioner to allow the trial of the cause to stand over once or oftener, and upon such terms as the circumstances of the case may render necessary: Provided, however, that the commissioner may, if he see fit, examine any witnesses that may be present, and defer the further hearing of the cause until the evidence of such absent witness shall have been obtained: Provided also that the mere consent of the proctors or advocates of the respective parties shall not be deemed sufficient ground for adjournment, unless some sufficient cause for such adjournment shall also be shown to the satisfaction of the commissioner.

Trial and judgment.

25. On the day of trial the commissioner shall hear and determine the cause according to law and all judgments given by him shall be pronounced in open court, and reduced into writing on the record, and signed by the commissioner.

§ 6. *Translations of Documents.*

Translations of documents.

26. No translation of any document tendered in evidence in any court of requests shall be permitted to be read as a translation of such document, unless the same shall be signed by an interpreter of the Supreme Court, or by a government sworn translator, or by a sworn translator or interpreter of some district court or of the said Court of Requests.

Who shall be deemed a translator.

27. No person other than an interpreter of the Supreme Court, or a government translator, or a translator or interpreter of any district court, shall be deemed to be a translator of any court of requests, unless he shall have received a certificate from the commissioner of such court that he is competent to fulfil the duties of a translator, and shall have taken an oath before such commissioner faithfully to perform the duties of his office.

Fees of translators.

28. No such translator as aforesaid shall be entitled to have or recover in respect of fees for such translation any sum of money in excess of the rates mentioned in the table of costs and expenses hereunto annexed.

§ 7. *Appeal.*

Petition of appeal.

29. Any party wishing to appeal from any judgment or order of the court may do so by petition to the Supreme Court, which petition shall be delivered to the chief clerk within seven days from the day on which such judgment or order shall have been pronounced.

Security in appeal.

30. No such appeal shall have the effect of suspending the execution of such judgment or order as aforesaid, unless the party appellant shall, within fourteen days from the day on which the judgment or order shall have been pronounced, have entered into a bond, together with some person (to be approved of by the commissioner) as his surety for the due performance of any judgment which the Supreme Court may pronounce in appeal; and every such bond shall be, as near as is material, in the form I. in the schedule of forms hereunto annexed.

Omission to appeal or give security in due time.

31. Any party appellant who shall fail to file his petition of appeal, or give such bond as aforesaid, within the periods for those purposes respectively limited, shall not be allowed his appeal, unless it shall be proved that such omission was not imputable to any negligence on his part; and the commissioner shall in all cases forward the application for leave to appeal, together with his report thereon, to the Supreme Court, who shall decide on the allowance or rejection of such appeal.

Record to be transmitted to the Supreme Court.

32. The commissioner shall forthwith, after security in appeal shall have been given, transmit the petition of appeal to the Supreme Court, together with the record of the said action, and all the documents and processes connected therewith.

§ 8. *Execution.*

Writ of execution against property.

33. Where any party shall have obtained a judgment decreeing the payment of any money, he may, unless the same shall have

been previously paid, or an appeal duly taken against such judgment, and security given in respect thereof, obtain a writ of execution upon such judgment; and the amount thereof shall be recoverable by seizure and sale of the property, moveable or immoveable, of the party against whom such judgment shall have been given; and every such writ shall be, as near as is material, in the form K. in the schedule of forms hereunto annexed.

Writ of execution against the person.

34. In any case wherein a commissioner shall, under the provisions of the 165th section of the Ordinance No. 7 of 1853, have ordered a defendant to be taken and detained in execution upon any judgment, the party recovering such judgment may, unless the same shall have been previously satisfied, or an appeal taken and security given in respect thereof, obtain a writ of execution against the person of the said defendant, and cause the same to be executed according to the terms thereof; and every such writ shall be, as near as is material, in the form L. in the schedule hereunto annexed.

Taxation of costs.

35. Before any writ of execution shall be issued as aforesaid, the clerk of the court shall, at the request of the party issuing the same, forthwith tax the costs and expenses of the suit as against the party to be charged therewith, and shall enter a note of such taxation and of the amount thereby allowed on the record of the case; and such costs and expenses shall in all cases be taxed and payable according to the rates specified in the table Q. hereunto annexed.

Writ of possession.

36. Where any commissioner shall have pronounced a judgment decreeing either party to be the owner of any property, moveable or immoveable, every such party may obtain a writ of possession upon such judgment, and the same may be enforced according to the terms thereof; and every such writ shall be, as near as is material, in the form M. in the schedule of forms hereunto annexed.

Executions how conducted.

37. All executions upon the judgment of any court of requests shall be conducted in conformity with and subject to the rules set forth in the Ordinance No. 1 of 1839, entitled "To amend the Laws relative to Fiscals and their Officers," and in the general rules respecting the duties of Fiscals promulgated by the Supreme Court on the 11th day of July 1840; or of such other Ordinance or rules as may from time to time be enacted in respect thereof.

Monies recovered, how disposed of.

38. All monies recovered by any Fiscal or Deputy Fiscal under any such execution shall be forthwith paid by him to the party entitled thereto, and a return thereof made to the court from which the writ has issued, anything contained in the 21st and 22nd sections of the said Ordinance No. 1 of 1839 to the contrary notwithstanding: Provided that if the said monies shall remain unclaimed in the hands of such Fiscal or Deputy Fiscal for a longer period than one month, he shall pay over the same to the government agent, or some assistant government agent of the province, who shall hold the same subject to the order of the said court.

Attachment.

39. The orders of the said court shall, wherever necessary, be enforced by attachment against the party in default thereon; and every such attachment shall be, as near as is material, in the form N. in the schedule of forms hereunto annexed.

40. Where any party shall stand committed by the order of any court of requests, a writ of commitment shall be issued to the Fiscal, directing him to receive such party into his custody, in terms of the said order; and every such writ of commitment shall be, as near as is material, in the form O. in the schedule of forms hereunto annexed. Commitment.

41. And every release from commitment shall be, as near as is material, in the form P. in the schedule of forms hereunto annexed. Release.

B.

Forms of Plaints.

In the Court of Requests of

A.B. of (*if he sues in any capacity, then state such capacity, e.g.* "as executor of *E. F.*," *or* "as administrator of the estate of *E.F.*," *or as the case may be*) Plaintiff,

vs.

C.D. of (*if sued in any capacity, then state as above*) Defendant.

§. 1. *Commencements and Conclusions.*

(*Date.*)

The plaintiff, by *G.H.*, his proctor (*or* "in person," *as the case may be*) sues the defendant for (*here state the cause of action, as near as is material, in the forms following,* § 2, 3, *and* 4, *including, wherever practicable, a bill of particulars; and conclude as follows:*)

And the plaintiff prays judgment for £ , (*and if interest is payable,* "and interest thereon at per cent. per annum from the .")

(*Or, if the action is brought to recover specific goods:*—"And the plaintiff prays for a return of the said goods, or their value, and £ damages for their detention.")

(*Or, if the action is brought to recover lands or houses, or the like:*—"And the plaintiff prays judgment for the said premises, and for possession thereof, and £ as damages," (*or* "£ per month as mesne profits," *as the case may be.*)

§ 2. *Statement of Causes of Action ex contractu.*

For Goods sold.—For goods bargained and sold (*or* "sold and delivered") by the plaintiff (*or* "by the said *E.F.* in his lifetime," *or as the case may be*) to the defendant (*or* "to the said *E.F.* in his lifetime," *or as the case may be*) to wit: (*here enumerate the goods in the form of a bill of particulars*).

For the use of a House and Land.—For the defendant's use, by the plaintiff's permission, of a house and land of the plaintiff, to wit: (*here describe the premises briefly*).

For Hire of Goods.—For the hire of goods by the plaintiff, lent on hire to the defendant, to wit: (*here enumerate the goods in the form of a bill of particulars*).

For Freight.—For freight for the conveyance of goods in a ship, by the plaintiff for the defendant, at his request, to wit: *&c.*

For Carriage of Goods by Land.—For the conveyance of goods by the plaintiff for the defendant, at his request, to wit: *&c.*

For Passage Money.—For the passage of the defendant on board the plaintiff's ship, at the defendant's request.

For Demurrage.—For the demurrage of the plaintiff's ship, kept on demurrage by the defendant, for days at £ a day.

On an Award.—For money payable by the defendant on an award made by *E.F.*, by virtue of a submission made by the plaintiff and defendant, bearing date the 18 .

For Work and Materials.—For work done (in building a house, *or the like*), and for materials provided by the plaintiff for the defendant, at his request, to wit: *&c.*

For Money lent.—For money lent by the plaintiff to the defendant.

For Money paid.—For money paid by the plaintiff for the defendant, at his request.

For Money received.—For money received by the defendant for the use of the plaintiff.

On an Account stated.—For money found to be due from the defendant to the plaintiff, on an account stated between them.

On a Bond.—For money due on a bond dated whereby the defendants bound themselves (the first as principal and the second as surety, *or as the case may be*) to pay to the plaintiff on demand (*or* "within six months from the date thereof," *or as the case may be*) the sum of £ and interest, &c., but which the defendants have failed to pay. (*Or*, that the defendants (the first as principal, and the second and third as sureties) are jointly and severally indebted to the plaintiff in £ upon the annexed bond.)

Upon a Lease for Rent.—For that the plaintiff by a lease dated the let to the defendant a house No. in Marandahn, for three years, from the , at £ a month, payable monthly, whereof six months' rent became due on the , and is still unpaid.

Upon a Promissory Note or Bill of Exchange.—That the defendant (as maker *or* indorser, *or* acceptor, *as the case may be*) is indebted to the plaintiff in £ upon the annexed promissory note (*or* bill of exchange, *as the case may be*).

On a Guarantee.—That the defendant, in consideration that the plaintiff would supply one *E.F.* with goods on credit, promised to be answerable to the plaintiff for the same; and although the plaintiff supplied the said *E.F.* with goods to the price of £ , yet neither the said *E.F.* nor the defendant has paid for the same.

§ 3. *Statements of Causes of Action ex delicto.*

Trespass to Land.—That the defendant broke and entered into certain land of the plaintiff, called (*Koongahawatte*) situated at (*Marandahn*), and bounded as follows:

North by, *&c.*
East by, *&c.*
South by, *&c.*
West by, *&c.*

containing (*three acres*) in extent, and carried away the produce thereof, to wit, (100 *cocoa-nuts*) (*or* broke and destroyed the fences thereof, *or as the case may be*).

Trespass to Goods.—That the defendant seized a hackery of the plaintiff, of the value of 7*l.* 10*s.*, and detained the same for five days (*or* shot at a cow of the plaintiff, and maimed her, *or as the case may be*).

Assault.—That the defendant assaulted and beat the plaintiff.

Wrongful Conversion of Goods.—That the defendant wrongfully converted to his own use (*or* "wrongfully deprived the plaintiff of the use and possession of") certain goods of the plaintiff, to wit, &c.

Wrongful Detention of Property.—That the defendant detains from the plaintiff his title deeds of certain lands called (*Jamboegahawatte*), situate in (*Marandahn*), to wit, one deed, dated, &c.

Against Carriers.—That the defendant undertook for certain reward to carry certain goods of the plaintiff, to wit, (*five bales of cloth*) of the value of 6*l.* from (*Colombo*) to (*Kandy*), but the defendant has not delivered the same; (*or*, "but, by the carelessness of the defendant, the said goods were damaged and lost to the plaintiff.")

§ 4. *Statements of Causes of Action relating to Land.*

In Possessory Cases.—For that the plaintiff was in possession for more than a year and a day of a certain field called (*here state the name, situation, boundaries, extent, and value, as above*, § 3). Yet the defendant ousted the plaintiff therefrom. Wherefore the plaintiff prays to be restored to possession.

(*a.*) *In Proprietory Cases—On a Claim by Inheritance.*—For that, 1. *A.* was the owner of the garden, called (*here state the name, situation, boundaries, extent and value, as above*). 2. That he died in 1830, leaving issue *B.*, *C.*, and *D.*, of whom *D.* died unmarried and without issue, and *C.* died leaving three children, of whom the plaintiff is one, and he as such became entitled to and was possessed of an undivided one third of one half of the premises; 3. Yet the defendant claims title thereto, and in March last ousted the plaintiff therefrom, to the plaintiff's damage of £ ; 4. Wherefore the plaintiff prays judgment for the said premises, and for possession thereof, and £ as damages (*or* £ per month as mesne profits).

(*b.*) *Do.—On a Claim by Purchase.—(Commence as in par.* 1. *form* (*a.*), *and proceed as follows :*) 2. That the said *A.* by deed, dated 8th July 1829, sold the same to the plaintiff; 3. Yet, *&c.*

(*c.*) *Do.—On a Claim by Gift.—(Commence as in par.* 1. *form* (*a.*), *and proceed as follows :*) 2. That the said *A.* by deed dated 12th June 1825, gifted the same to the plaintiff, who accepted it; 3. Yet, *&c.*

(*d.*) *Do.—On a Claim by Partition.—(State the premises and the plaintiff's right as in par.* 1 *and* 2, *form* (*a.*), *and proceed as follows :*) 3. That by partition made amongst the heirs, by a deed dated the 19th December 1850 (*or*, by partition made and acted upon for more than 10 years), the plaintiff, in lieu of his said share, obtained the following (*here describe the property claimed*); 4. Yet, *&c.*

(*e.*) *Do.—On a Fiscal's Seizure.—(State the premises and the plaintiff's right as in the above forms, and conclude as follows :*) 3. Yet the defendant, being the holder of a writ, No. 24,825 of the District Court of Colombo, directed against one *Ahamadoe Lebbe Comisteer*, caused the Fiscal to seize and advertise the said premises for sale, and disputed the plaintiff's title thereto; 4. Wherefore, *&c.*

(*f.*) *Do.—On disputed Boundaries.*—1. That the plaintiff and defendant are owners of two adjoining gardens, to wit, *Galboddewatte* of the plaintiff, and *Polwatte* of the defendant; 2. Yet the defendant has encroached upon the plaintiff's garden, towards the south, to the extent of about 2 roods, of the value of 3*l.*, and disputes his title thereto : Wherefore, *&c.*

(*g.*) *Do.—On a Claim by Prescription.*—1. That the plaintiff was for 10 years and upwards in the undisturbed and uninterrupted possession of (*here state the premises, as above*); Yet, *&c.*

C.

Form of Summons.

Summons. In the Court of Requests of

No.

A.B. of (as executor, *&c.*, *or as the case may be*) Plaintiff,

vs.

C.D. of (as executor, *&c.*, *or as the case may be*) Defendant.

To the defendant above named.

You are required to appear before this court on the day of next, at 10 o'clock in the forenoon, to answer the suit of the plaintiff above named, wherein* he claims £

* (*If the action is brought to recover lands or houses, or the like :*—Wherein he claims a certain garden, *Jamboogahawatte*, situated at, *&c.*, and complains that you have ousted him therefrom, (*or* "that you have caused the same to be seized on a writ as the property of *E.F.*,") and also £ damages.)

for (*here state the cause of action briefly from the plaint, and if interest is claimed say,* "together with interest at per cent. per annum from the .")

And take notice that in default of your so doing the court will enter judgment for the plaintiff.

J. M., Chief Clerk.

(*Here insert the date.*)

D.

FORM OF RETURN TO SUMMONS OR OTHER PROCESS.

(*To be endorsed thereon or annexed thereto.*)

I do hereby swear (*or* affirm, *as the case may be*) that I did on the day of serve the within summons (*or* subpœna, *or as the case may be*) on the within-named defendant (*or* witness, *or as the case may be*) by (*here state the mode of service as in the following forms :*)

(*a.*) By delivering a copy (*or* translation) thereof to him.

(*b.*) By delivering a (*copy*) thereof to (*Juanis Appoo*), being a person of his household apparently more than 16 years old, whom I found at the (*dwelling-house*) of the (*defendant*).

(*c.*) By affixing a (*copy*) thereof on the (*door-post*) of his (*dwelling-house*) at (*No.* 36, *Chatham Street, Colombo*).

(*d.*) By affixing a (*copy*) thereof at (*Davetagahawatte, in Demettegodde*), being his last known place of residence.

E.

FORM OF ADMISSION.

(*Date.*)

The defendant admits the claim, and consents to judgment being entered for the plaintiff as prayed for in his plaint.

C.D. (Defendant.)

Signed in my presence,

J.M., Chief Clerk (*or* Interpreter, *or as the case may be*).

F.

FORMS OF PLEAS OR ANSWERS.

§ 1. *Commencements and Conclusions.*

The defendant, by *G.H.* his proctor, (*or* "in person," *as the case may be*) says, (*here insert the plea or answer, as near as is material, in the forms following,* § 2, 3, 4).

And for a second plea the defendant says, (*here state the second plea, and so as to further pleas; and if the defendant prays for a declaration of title to land, conclude as follows:*

" And the defendant prays for judgment for the said premises." *In other cases no conclusion will be necessary*).

§ 2. *Pleas in Actions ex contractu.*

Plea to the Jurisdiction.—That the defendant is resident of , beyond the jurisdiction of this court, and the alleged cause of action did not accrue to the plaintiff within such jurisdiction.

Denial of Plaintiff's capacity.—That the plaintiff is not executor (*or* " administrator," *or* " assignee," *or as the case may be*) as alleged.

Denial of Defendant's capacity.—That he is not (executor, *&c.*) as alleged.

Minority of Defendant.—That at the time of the said contract (*or* " of the accruing of the said cause of action ") he was a minor.

Coverture of Defendant.—That at the time of the said contract (*or* " of the accruing of the said cause of action ") she was the wife of *D.D.*

Plene administravit.—That he has fully administered the estate of the said *E.F.*, and had not, at the commencement of this suit, or at any time since, any goods of the said *E.F.* to be administered.

Denial of the Debt.—That he was never indebted as alleged.

Denial of the Contract.—That he never promised (*or* " agreed," *or* " warranted," *or such other appropriate word*) as alleged.

Denial of Defendant's making the Note or accepting the Bill.—That he did not make the said note (*or* " accept the said bill.")

Denial of Bond or Agreement.—That he did not execute the said bond (*or* " agreement.")

Prescription.—That the alleged cause of action did not accrue within (three) years before this suit:

Payment.—That he satisfied the plaintiff's claim by payment (*or* " That as to £ , parcel of the plaintiff's claim, the defendant satisfied the same by payment.")

Satisfaction.—That he satisfied the plaintiff's claim by delivering to him certain goods, to wit, (*here enumerate the goods in the form of a bill of particulars.*)

Set-off.—That the plaintiff at the commencement of this suit was and still is indebted to the defendant in £ , for (*here state the cause of set-off, as in a plaint*) which amount the defendant is willing to set-off against an equal amount of the plaintiff's claim.

Tender.—That as to £ , parcel of the plaintiff's claim, the defendant before action brought tendered the same to the plaintiff, but he refused to accept it.

Release.—That before action brought, the plaintiff by a deed dated released the defendant from the said claim.

§ 3. *Pleas in Actions ex delicto.*

Plea to the Jurisdiction.—(As above, § 2.)

Not guilty.—That he is not guilty.

Non detinet.—That he did not and doth not detain as alleged.

Denial in Trespass of the Plaintiff's possession.—That the plaintiff was not possessed of the said premises; but the same were in the possession of the defendant; (*or* of *E.F.*, by whose license the defendant committed the alleged trespass).

Denial in Trespass of the Goods being Plaintiff's.—That the said (hackery, *or* cow, *or as the case may be*) was not the plaintiff's as alleged.

Leave and License.—That he did what is complained of by the plaintiff's leave and license.

Self-defence.—That the plaintiff first assaulted the defendant, who thereupon necessarily committed the alleged assault in his own defence.

Lien in detinue.—That the defendant had and still has a lien over the said goods for the sum of £ , due by the plaintiff to the defendant for the conveyance of the same by the defendant for the plaintiff, and at his request, from (Liverpool) to (Colombo) (*or* " for work done by the plaintiff upon the said goods, for the defendant, and at his request.")

§ 4. *Pleas in Actions relating to Land.*

Plea to the Jurisdiction.—That the said lands are of greater value than 10*l.* (*or*, that the said premises are situated and the defendant is a resident at Negombo, beyond the jurisdiction of this court).

Denial of Entry and Ouster.—That he is not guilty.

Denial of Seizure.—That he did not cause the said seizure, nor dispute the plaintiff's title.

Denial of Plaintiff's Title, &c.—(*Admit or deny each of the paragraphs in the plaint, and state the matters in defence, following as nearly as possible the forms provided for plaints: ex. gr.*) 1. That *A.* was the owner of the premises, which are correctly described. 2. That he left four children, to wit, *B.*, *C.*, *D.*, and *E.*, of whom *E.* died unmarried, and without issue; *C.* also died, leaving three children, of whom the plaintiff is one, who is accordingly entitled only to a third of a third. 3. That the defendant, as the only son of *F.*, was and is entitled to his one third, and beyond this he does not dispute the plaintiff's title.

G.

FORM OF NOTICE TO BE EXAMINED.

Notice. In the Court of Requests of

No. *A.B.* of Plaintiff,

vs.

C.D. of Defendant.

To the plaintiff (*or* defendant) above named.

You are required to appear before this court on the day of next, at 10 o'clock in the forenoon, to be examined *vivâ voce.*

(*Here insert the date.*) J.M., *Chief Clerk.*

H.

FORM OF SUBPŒNA.

Subpœna. In the Court of Requests of

No. *A.B.* of Plaintiff,

vs.

C.D. of Defendant.

To of

You are required to appear before this court on the day of next, at 10 o'clock in the forenoon, to give evidence in the above case, (and to bring with you the following, to wit,).

(*Here insert the date.*) J.M., *Chief Clerk.*

I.

FORM OF BOND IN APPEAL.

Bond in Appeal. In the Court of Requests of

No. *A.B.* of Plaintiff,

vs.

C.D. of Defendant.

Know all men by these presents, that we, *C.D.* and *E.F.*, both of , are jointly and severally held and firmly bound to the chief clerk for the time being of the said court in the sum of £ , to be paid to such chief clerk as aforesaid, or to his assigns ; for which payment to be well and truly made we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Whereas the said *C.D.* has appealed against a judgment pronounced by the said court in the above case, bearing date the :

Now the condition of the foregoing bond is such, that if the said *C.D.* shall abide by and perform any judgment which the Supreme Court shall pronounce on such appeal, and shall pay all such costs, or other sums of money which shall be awarded against him, then the said bond shall be void, or otherwise shall be in full force.

Witness our hands at this day of one thousand eight hundred and sixty .

Signed in my presence, *C.D.*
E.F.

K.

FORM OF WRIT OF EXECUTION AGAINST PROPERTY.

Writ against Property. In the Court of Requests of

No. *A.B.* of Plaintiff,

vs.

C.D. of Defendant.

To the Fiscal for the province.

Levy and make of the houses, lands, goods, debts, and credits of the above-named by seizure, and if necessary by sale thereof, the sum of £ with interest as per margin, which the above-named has recovered against the said by a judgment of this Court, bearing date the day of , and pay the same to the said , and inform this court for what sum or sums, and to what person or persons, you have sold the said property respectively. And have you there this mandate.

Judgment £
Costs -
———
£
———
With interest on £
at per cent. from the

(*Here insert the date.*) J.M., *Chief Clerk.*

L.

FORM OF WRIT OF EXECUTION AGAINST PERSON.

Writ against Person.

No. In the Court of Requests of

A.B. of Plaintiff,

vs.

C.D. of Defendant.

To the Fiscal for the province.

Seize and take the above-named and keep him safely, so that you have his body before this court forthwith, to satisfy the sum of £ with interest as per margin, which the above-named has recovered against the said by a judgment of this court, bearing date the day of . And have you there this mandate.

Judgment £
Costs -
———
£
———
With interest on £
at per cent. from the

J.M., *Chief Clerk.*

(*Here insert the date.*)

M.

FORM OF WRIT OF POSSESSION.

Writ of Possession.

No. In the Court of Requests of

A.B. of Plaintiff,

vs.

C.D. of Defendant.

To the Fiscal for the province.

Forthwith eject the above-named from and place the above-named in possession of the [field called *Halagahacoomboore*, situated at Dehiwelle, &c.] which, by a judgment of this court, bearing date the day of has been decreed to the said , and inform this court, on or before the day of what you have done by virtue hereof. And have you there this mandate.

(*Here insert the date.*) J.M., *Chief Clerk.*

NOTE.—(*If the writ relate to moveables:* Forthwith take and recover from the above-named the (*title deeds of the garden Delgahawatte*), and deliver the same unto the above-named , he, the said , having recovered the same by a judgment, &c., *as above.*)

N.

FORM OF ATTACHMENT.

Attachment.

No. In the Court of Requests of

A.B. Plaintiff,

vs.

C.D. Defendant.

To the Fiscal for the province.

Attach so that you may have his body forthwith before this court, to answer for (*his non-appearance on a notice served upon him by order of this court*, or, *for his contempt of this court, in having taken possession of a certain garden, from which he had been ejected by an order of this court, or, as the case may be*). And have you there this mandate.

(*Here insert the date.*) J.M., *Chief Clerk.*

O.

FORM OF COMMITMENT.

Commitment.

No. In the Court of Requests of

A.B. Plaintiff,

vs.

C.D. Defendant.

To the Fiscal for the province.

Receive into your custody the body of , committed under an order of this court, dated the day of 186 , and keep him safely until you be lawfully directed to the contrary.

(*Here insert the date.*) J.M., *Chief Clerk.*

P.

FORM OF RELEASE FROM COMMITMENT.

Release.

No. In the Court of Requests of

A.B. Plaintiff,

vs.

C.D. Defendant.

To the Fiscal for the province.

Release from your custody the body of , committed under an order of this court, dated the day of 186 , if for no other cause detained.

(*Here insert the date.*) J.M., *Chief Clerk.*

Q.

TABLE OF COSTS AND EXPENSES.

I. Costs as between party and party, where a proctor or advocate has appeared.

1. *In the Court of Requests.*

In money cases which have *not been contested:*

	£	s.	d.
In all cases above 2*l.* and not exceeding 5*l.* -	0	7	6
Do. 5*l.* „ 10*l.* -	0	15	0

Courts of Requests.	*Ceylon Savings Bank.*		
In money cases which have been *contested:*	£	*s.*	*d.*
In all cases above 2*l.* and not exceeding 5*l.* -	0	15	0
Do. 5*l.* „ 10*l.* -	1	10	0
In all land cases:			
In all cases not exceeding 5*l.* - -	0	15	0
Do. above 5*l.* and not exceeding 10*l.* -	1	10	0

2. *In Appeal.*

Brief fee on argument, 1*l.* 1*s.* to 2*l.* 2*s.*, according to the length and difficulty of the case.

Provided that where an advocate and proctor shall have appeared for the same party in any case, no additional costs shall be recoverable by reason of such appearance.

II. Costs and Expenses, whether a proctor or advocate has appeared or not.

1. *Court fees*, as regulated by the schedule annexed to the Ordinance No. 19 of 1852, "To amend the Law relating to Stamp Duties," or by any Ordinance relating to stamp duties which may be in force for the time being.

2. *Batta* of witnesses, at the discretion of the Commissioner, and according to the circumstances of each witness.

III. Translator's fees.

For every folio of 120 words -	- 8*d.*
For every fractional part of a folio	- 8*d.*

30th November 1859.

110.

No. 12 of 1859.

For the better Regulation of the Ceylon Savings Bank.

Preamble. Whereas it is expedient to amend the law relating to the management and regulations of the Ceylon Savings Bank:

It is enacted as follows:

1. Repealing clause.

2. Has had its effect.

Short title. 3. This Ordinance may be cited as the "Ceylon Savings Bank Ordinance, 1859."

Interpretation. 4. In interpreting this Ordinance, the words "managing body" shall mean the trustees and managers appointed under Section 5.

The words "the bank" shall mean the Ceylon Savings Bank.

The word "Governor" shall mean the officer executing the government of Ceylon.

The words "Colonial Secretary" shall mean the person for the time being acting as or for the Colonial Secretary.

The words "Treasurer of Ceylon" shall include any person acting as treasurer of Ceylon.

5. The bank shall be under the management of three trustees and fifteen managers, who shall not, directly or indirectly, have any salary, allowance, profit, or benefit whatsoever therefrom: Provided, however, that nothing in this section shall prevent such trustees or managers, or any officer of the bank, from becoming depositors therein on the same terms as others. Management.

6. The Governor of the Colony shall be the president, and the Colonial Secretary shall be the vice-president, of the said bank for the time being. President and Vice-president.

7. The three trustees shall from time to time, as occasion may require, be appointed by the Governor. Trustees.

8. The fifteen managers shall from time to time, and as occasion may require, be appointed by the trustees: Provided that three of the managing body shall form a quorum for the transaction of business. Managers. Quorum.

9. The treasurer of the Colony for the time being shall be the treasurer of the said bank. Treasurer.

10. The managing body may, with the approval of the Governor, acting with the advice and consent of the Executive Council, order the treasurer to pay out of the funds of the bank such sums of money as to them shall seem fit, by way of salary or fees to the secretary, auditor, actuary, clerks, and other officers and servants of the said bank. Managing body.

11. A general meeting of the depositors of the said bank shall be held once a year, on or before the 31st day of March, at which meeting the managing body shall submit a statement of the affairs of the said bank for the preceding year. General meeting.

12. The managing body may call special general meetings when they think proper; and, on the requisition of any five managers delivered in writing to the secretary, it shall be obligatory on him to call a special general meeting within fifteen days from the date of the delivery of such requisition. Special meetings.

13. Seven days' notice of every general meeting shall be published in the "Government Gazette," and in all the local newspapers. Notice of general meetings.

14. The managing body may from time to time make rules and regulations touching the business of the said bank which said rules and regulations shall not come into operation until they shall have been approved of by the Governor, with the advice and consent of the Executive Council. Managing body to make rules and regulations.

15. Such rules and regulations shall be entered in a book to be kept at the office of the said bank, which book shall be open at all reasonable hours to the inspection of the depositors. Regulations when valid to be kept in a book.

16. The said rules and regulations so made as aforesaid shall be binding on the managing body and officers of, and all depositors in, and all borrowers and other persons having dealings with, the Regulations on whom binding.

bank, and their respective heirs, executors, administrators, assigns, and agents, without further notice thereof.

Printed copies of regulations to be furnished.

17. The managing body, and all officers, depositors, borrowers, and other persons having dealings with the bank, and their respective heirs, executors, administrators, assigns, and agents, shall, on demand, be entitled to be furnished by the secretary of the said bank with one printed copy of the said rules and regulations, as often as the same are altered and amended, free of expense, and any additional copies on a reasonable payment for the same.

Depositor.

18. No depositor shall be allowed to deposit in the said bank any sum less than one shilling at any one time, nor more than fifty pounds in any one year, nor shall any depositor be allowed to have at any one time in the said bank a larger sum than two hundred and fifty pounds of principal.

Charitable societies may become depositors.

19. Any charitable society or institution may deposit funds in the said bank to the amount of two hundred and fifty pounds per annum until such deposits, including interest, shall amount to seven hundred and fifty pounds, after which the said deposits shall not bear interest at a higher rate than three per cent. per annum: Provided that the said bank may at any time refuse to receive any sum of money from any such society or institution, and may give thirty days' notice to the treasurer, trustees, or officers thereof to withdraw from the savings bank all such sums as may have been deposited therein on behalf of such society or institution, together with the interest which may have accumulated thereon, and from and after the expiration of such period no further interest shall be payable on such deposits.

Discharge for payments made to charitable societies.

20. The receipt of any such treasurer, trustees, or officers for the time being of any such society or institution, for money withdrawn by or paid to such society or institution, shall be a sufficient discharge to the said bank in that behalf.

Minors may deposit.

21. The said bank may receive deposits from or for the benefit of minors, subject to the same regulations as to deposits made by others, and it shall be lawful for the bank to pay to such minors the interest which may become due on such deposits; and where such minors shall have themselves made any such deposit, it shall be lawful for the said bank, on withdrawal thereof, to pay the same to them, and the receipts of such minors shall be a sufficient discharge to the said bank in that behalf.

Arbitration.

22. In case any dispute shall arise between the managing body of the said bank, or any person or persons acting under them, and any individual depositor therein, or any trustee of a depositor, or any person claiming to be heir, executor, administrator, assign, or agent of such depositor, then and in every such case the matter so in dispute shall be referred to two arbitrators, one to be appointed by each party, which arbitrators shall in the first instance conjointly appoint an umpire, and the judgment of such arbitrators or umpire shall be conclusive: Provided that neither party shall be entitled to institute any suit in reference to such dispute as aforesaid until after the same has been referred to arbitration in manner aforesaid, and then only in case of the arbitrators or

umpire failing to make an award within the time specified in the order of reference, or if no time is specified therein, within a reasonable time.

23. The several sums which shall from time to time be deposited in the said bank shall be laid out at interest by the trustees on the pledge or mortgage of moveable or immoveable property, or in securities of the Government of the United Kingdom of Great Britain and Ireland, or of the Government of India, or of this island, and from time to time the said trustees may sell or otherwise dispose of any such securities : Provided, however, that any monies remaining in the hands of the treasurer, over and above the principal of the moneys deposited in the said bank, may, until so invested as aforesaid, be deposited at interest by the trustees in any chartered bank carrying on business in this island. **Funds, how to be laid out.**

24. All mortgages, hypothecations, bonds, receipts, instruments, and securities for monies invested or deposited as aforesaid shall be granted to "the trustees of the Ceylon Savings Bank," without specifying the names of the trustees. **Instruments need not specify the names of trustees.**

25. The trustees may sue and be sued as "the trustees of the Ceylon Savings Bank," and no suit shall abate by reason of the death or removal of any trustee. **Trustees may sue.**

26. The actuary of the bank shall pay to the treasurer all sums of money received by him from depositors, as often as the same shall amount to fifty pounds; and the treasurer shall not make any payment unless the person or persons applying for that purpose shall produce to him an order, signed by the secretary and one of the trustees. **Deposits and payments.**

27. The secretary, the actuary, and other officers and servants, or other persons receiving salaries or allowances for their services from the funds of the bank, shall, if required by the managing body, give good and sufficient security, by bond to the trustees, for the due and faithful execution of their duties in their respective offices. **Liability of officers.**

28. In case of the death of any depositor whose deposits, including interest thereon, shall not exceed the sum of twenty pounds, and where the secretary and one of the trustees shall be satisfied that no will was made and left, and that no letters of administration will be taken out, they shall be at liberty to pay the same to the relatives of the deceased, according to law, and the bank shall be indemnified by any such payments from all and every claim in respect thereof by any person whatsoever. **Letters of administration, when to be dispensed with.**

29. All monies, goods, chattels, and effects whatsoever, and all securities for money, or other obligatory instruments, and evidences or muniments of title, and all other effects whatsoever, and all rights or claims belonging to or held by the said bank, shall vest in the trustees thereof for the use and benefit of the said bank and the respective depositors therein, their heirs, executors, administrators, or assigns respectively, according to their respective claims and interest, and also shall, for all purposes of action or suit, as well criminal as civil, in anywise touching or concerning the same, be deemed and taken to be, and **Effects of bank in whom vested.**

shall in every such proceeding (where necessary) be stated to be, the property of "the trustees of the Ceylon Savings Bank," without further description.

Exemption from stamp duty.

30. No power, warrant, or letter of attorney granted or to be granted by the trustees of the said bank, nor any power, warrant, or letter of attorney given by any depositor in the said bank to any other person, authorizing him to make any deposit of any sum of money in the said bank on behalf of the said depositor, or to sign any document or instrument required by the rules or regulations of the said bank to be signed on making such deposit, or to receive back any sum of money deposited in the said bank, or the dividends or interest arising therefrom, nor any receipt nor any entry in any book of receipts for money deposited in the said bank, nor for any money received by any depositor, his executors or administrators, assigns, attornies, or agents, from the funds thereof, nor any draft or order, nor any appointment of any agent, nor any certificate or other instrument for the revocation of such appointment, nor any bond or other instrument or document whatsoever required or authorized to be given, issued, signed, made, or produced in pursuance of this Ordinance, or of the rules and regulations of the said bank, shall be subject to or be charged with any stamp duty or duties whatsoever.

Rights and liabilities continued.

31. All rights and liabilities of the trustees, officers, depositors, borrowers, and others having transactions with the bank shall continue and exist as if this Ordinance had not been enacted, except where specially altered herein.

7th December 1859.

111.

No. 14 of 1859.

An Ordinance to amend the Law relating to Butchers and the private killing of Cattle, and to provide for the establishment of public Slaughter-houses.

Preamble.

Whereas it is expedient to amend the law relating to butchers and their licenses, and to provide for the establishment of public slaughter-houses:

Be it enacted as follows:

1. Repealing clause.

Interpretation.

2. In interpreting and reading this Ordinance,

The words "Government Agent" shall mean the Government Agent or the Acting Government Agent of the province in which anything shall be done, or may be required to be done, under the provisions of this Ordinance.

The words "licensed butcher" shall be taken to mean any person obtaining a license under section 4 of this Ordinance.

The word "cattle" shall be taken to include oxen and buffaloes.

The word "animal," shall be taken to include any cattle, sheep, goat, or pig.

3. The proper authority herein-after mentioned shall be,

Within any town and limits wherein a police force is now or shall hereafter be established, the superintendent of police, or the person acting as or for the superintendent of police.

Superintendent of police to grant licenses in certain cases.

Within any town or station where no police force shall have been established, or where there shall be no superintendent of police, or no person acting as or for the superintendent of police, but at which any police court now is or hereafter shall be established, and within a boundary of three miles from such court, the magistrate of such court.

Police court to grant licenses in certain cases.

4. Every person intending to carry on the trade of a butcher within the towns, stations, limits, and boundaries aforesaid shall once in each year obtain a general license to carry on such trade, which license shall be in the form A. in the schedule to this Ordinance annexed, and shall be in force until the 31st day of December next ensuing.

General licenses for butchers.

5. Every such person so intending to carry on such trade as aforesaid shall, before obtaining such license, execute and deliver to the proper authority granting the license a joint and several bond for the penal sum of fifty pounds, together with two sufficient sureties, which bond and the condition thereof shall be in the form B. in the schedule to this Ordinance annexed.

Licensed butchers to give bonds.

6. If any proper authority shall see any just and reasonable ground for so doing, it shall be lawful for him to refuse to issue such general license as aforesaid.

When license may be refused.

7. On any judgment being recovered against any licensed butcher for breach of the condition of the bond entered into by him, the license of such butcher shall be held to be null and void from the date of such judgment.

License avoided on breach of bond.

8. Every general license granted to a person intending to carry on the trade of a butcher shall be on a stamp of ten shillings.

Fees for licenses.

9. Every licensed butcher shall, on the first Monday in every month, register in the office of the proper authority a true and accurate report (as nearly as possible) of the age, sex, colour, marks, and description of all cattle slaughtered by him in the preceding month, and the names and places of abode of the persons from whom the same were purchased or obtained, which said report shall be in the form C. in the schedule to this Ordinance annexed.

Slaughtered cattle to be registered.

10. No licensed butcher shall slaughter any animal but at the places appointed by the proper authority, or at any public slaughter-house, as herein-after provided.

Animals to be slaughtered where appointed.

11. No licensed butcher shall slaughter any cattle unless he shall have previously exposed the same to public view in some convenient spot, appointed by the proper authority, for a period of not less than 24 hours.

Cattle to be exposed before slaughter.

Penalty on butchers.

12. Any licensed butcher convicted of a breach of any of the three preceding sections shall be liable to a fine not exceeding five pounds, and in default of payment to imprisonment with or without hard labour for a term not exceeding three calendar months.

And with respect to special licenses for slaughtering cattle, be it enacted as follows:

Special license.

13. It shall not be lawful for any person (not a licensed butcher) within such towns, stations, limits, and boundaries as aforesaid, to slaughter any cattle, unless he shall have obtained a special license from the proper authority for that purpose, which said special license shall be in the form D. in the schedule to this Ordinance annexed.

Place and conditions.

14. The person obtaining such special license shall not slaughter cattle, except at the place named in such license, or under any conditions therein set forth.

Penalty.

15. Any person (not a licensed butcher) who shall within such towns, stations, limits, and boundaries as aforesaid slaughter cattle without a special license, or having obtained a special license shall slaughter cattle at other than the place named in the said special license, or in breach of any condition therein set forth, shall be liable to a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding three calendar months.

And with respect to the slaughtering of cattle beyond the towns, stations, limits, and boundaries aforesaid, it is enacted that:

Notice.

16. No person shall slaughter cattle without giving forty-eight hours' previous notice of his intention to do so to the nearest resident headman.

Form of notice.

17. The said notice shall be in writing, and shall state (as nearly as possible) the age, sex, colour, marks, and description of such cattle, and shall be signed by the owner of the cattle intended to be slaughtered and some respectable person of the neighbourhood.

Penalty.

18. Any person who shall slaughter such cattle without giving such notice, or who shall give or sign a notice wilfully false, shall for each offence be liable to a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for a term not exceeding three calendar months.

Headman to inquire into truth of notice.

19. The headman receiving such notice as aforesaid shall make inquiry into the truth thereof, and if correct shall certify its correctness on the back thereof, under his signature, which shall be a sufficient warrant for the slaughter of the cattle therein mentioned; and if any such headman shall falsely certify or shall neglect or refuse duly to certify such notice, he shall on conviction be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three calendar months.

Proviso for troops on march.

20. Provided always, that none of the enactments and provisions in the foregoing sections shall apply to any troops when on march, or stationed beyond the towns, stations, limits, and boundaries aforesaid, when such previous notice in the 17th section

mentioned would prevent the immediate supply of rations; but in such case it shall be lawful for the proper officer of the commissariat, or for the person acting under his authority, forthwith to transmit to the nearest police magistrate a certificate signed by himself and the nearest resident headman of the necessity of an immediate supply, and containing a true and accurate account as aforesaid of the cattle slaughtered for the exclusive use of such troops, together with a receipt from the person or persons from whom every such beast was received.

Possession of stolen cattle punishable.

21. Any person having in his possession stolen cattle, unless he shall produce a note in writing, signed by the person from whom such cattle were received or purchased, containing a description of such cattle and the name and abode of such person, and attested by two witnesses, of whom one shall be the police vidahn, constable, or other headman of the district from which the cattle were removed, shall be liable to a fine not exceeding five pounds, and in default of payment, to imprisonment, with or without hard labour, for any period not exceeding three calendar months.

Duplicate of note to be preserved.

22. All police vidahns, constables, or headmen who shall have certified any notice or attested any note, pursuant to the directions contained in the clauses 19 and 21, shall preserve a duplicate thereof, and at the commencement of each month shall forward duplicates of all such notices or notes certified or attested by them during the preceding month, to the police magistrate of the district, for reference and safe custody.

Unlawful possession of beef.

23. Any person in whose possession shall be found any beef which he shall not be able satisfactorily to account for, shall be liable to punishment in the same manner as is provided in the 21st clause, notwithstanding that no owner shall appear to prosecute, or claim the same as his property.

Limitation of prosecution.

24. Prosecutions under this Ordinance, except those instituted under section 19, shall be commenced within three months from the commission of the offence, and not afterwards.

And with reference to the establishment of public slaughter-houses, be it enacted as follows:

Public slaughter-houses to be proclaimed.

25. Whenever a building shall have been erected for the purposes of a public slaughter-house within any town and limits in which a police force shall have been established, and such building shall have been certified to the Governor by the Government Agent as sufficient for the purposes of a public slaughter-house in such town, the Governor may, with the advice and consent of the Executive Council, declare and proclaim such building to be a public slaughter-house.

Governor and Executive Council may make regulations.

26. It shall be lawful for the Governor, with the advice and consent of the Executive Council, to make and proclaim rules and regulations in reference to slaughter-houses, as follows:

As to the management and general discipline thereof:

As to the fees to be charged for the use of the slaughter-house, or for slaughtering:

As to the destroying or other disposal of diseased animals brought to a slaughter-house.

Public slaughter-house under charge of the police.

27. Every such public slaughter-house shall, from the date of the proclamation of the same, be under the charge and control of the superintendent of police, or of the person acting for him in such town and limits as aforesaid; or where there is no superintendent of police, or such person as aforesaid, of some other person to be appointed by the Government Agent.

Diseased animals to be seized.

28. It shall be lawful for the person having the charge and control of a public slaughter-house to seize or cause to be seized all unhealthy and diseased animals, and to have the same destroyed or otherwise disposed of, as may be directed by regulation.

Penalty for breach of regulation.

29. Any person guilty of any breach of any rule or regulation made in pursuance of this Ordinance shall be liable to a fine not exceeding five pounds, or in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months.

30. Has had its effect.

SCHEDULE.

A.

General License for Butchers.

has permission to slaughter animals, and carry on the trade at of a butcher, conforming himself to the Ordinance No. of 1859. This license to be in force till the 31st December 18 .

Police Office, Colombo, 18 .

Entd. *Chief Supt. of Police.*

B.

Bail Bond.

Know all men by these presents, that *E.F.* of *G.H.*, and *J.K.* of *L.M.* and *N.O.* of *P.Q.* are jointly and severally held and firmly bound unto Her Majesty the Queen, her heirs and successors, in the penal sum of 50*l.* of lawful money of Ceylon, to be paid to Her said Majesty, or her heirs and successors, for which payment well and truly to be made we bind ourselves, jointly and severally, our heirs, executors, administrators, and assigns firmly by these presents. Dated the *first* day of *January one thousand eight hundred and fifty-nine.*

Whereas the said *A.B.* has been duly licensed by *R.S. superintendent of police*, under Ordinance No. of 1859: Now the condition of the above obligation is such, that if the said *E.F.* as long as he shall hold a license shall carry on and occupy the trade of a butcher, within the town and police limits of *Colombo*, in accordance and conformity with the enactments and provisions of the said Ordinance, then the above-written bond or obligation shall be void, otherwise shall remain in full force and virtue.

C.

Report of Cattle slaughtered by

Date of purchase.	Description.	Colour.	Age.	Brand Marks.	From whom purchased.	Seller's Place of Residence.	Date of slaughter.	Remarks.

I do hereby declare that the above is a correct account of cattle slaughtered by me during the month of 18 .

Colombo, 18 . *Signature.*

D.

License to slaughter Cattle.

The bearer has permission to slaughter the under-mentioned at on the conforming himself to the Ordinance No. of 1859.

Description.	Colour.	Age.	Brand Marks.	Remarks or Conditions.
One bullock -	*Black* -	·14		

(The spaces occupied by the words in italics are to be filled up as the case may be.)

Police Office, Colombo, 18 .

Chief Supdt. Police.

12th December 1859.

112.

No. 1 of 1860.

An Ordinance to prevent the overcrowding of Vessels carrying Passengers in the Gulf of Manaar and Palk's Straits.

Whereas it is necessary to prevent the overcrowding of vessels carrying passengers in the Gulf of Manaar and Palk's Straits: And whereas the Ordinance No. 10 of 1857 was passed for Preamble.

effecting the above purpose, which said Ordinance has expired, and the Ordinance No. 8 of 1853 has thereby become revived: It is enacted as follows:

1. Has had its effect.

2. Repealing clause.

Interpretation.

3. For the purposes of this Ordinance the word "vessel" shall not apply to any vessel propelled partly or wholly by steam.

Number of passengers to be carried in unlicensed vessels.

4. No vessel shall carry passengers from any port or place in Ceylon to any port or place in India in the Gulf of Maanar or Palk's Straits, in a proportion greater than one passenger to every four tons of the burden of such vessel, without a license.

Number of passengers to be carried in licensed vessels.

5. No vessel shall be licensed to carry passengers on any such voyage as aforesaid in a proportion greater than one passenger to every ton of burden, nor unless the vessel has space on a deck or platform, under hatches, reserved for the accommodation of the passengers, in the proportion of six superficial feet for every passenger, with not less than five feet clear between the upper deck and the lower deck or platform, except a vessel proceeding in ballast, which may be licensed to carry a number of passengers not exceeding the proportion of two and a half to every ton of her burden; provided that the whole of the space usually allotted for cargo, and not occupied by ballast, be kept for the accommodation of the passengers, and for storing the provisions and water for their use; and that the space left clear for the accommodation of the passengers on the deck or decks of the vessel be not less than four superficial feet for each passenger.

Penalty on master of unlicensed vessel.

6. The master or tindal of any vessel which shall carry passengers on any such voyage as aforesaid without a license, in a proportion exceeding that laid down in the 4th section of this Ordinance, shall be liable to a fine not exceeding two pounds for each passenger in excess of such proportion.

Penalty on master of licensed vessel.

7. The master or tindal of any licensed vessel which shall carry on any such voyage a greater number of passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, or who shall knowingly receive or allow to come on board such vessel a greater number of passengers than is specified in the license, intending to proceed to sea with such passengers on any such voyage, shall be liable for any such offence to a fine not exceeding two pounds for each passenger in excess of such number, or for each passenger who is not provided with accommodation agreeably to the license.

Government to appoint ports for shipment of passengers when the number of passengers to be carried is greater than one to every four tons of burden.

8. Passengers in a greater number than one passenger to every four tons of the burden of any vessel shall not be shipped from Ceylon for any port or place in India in the Gulf of Manaar or Palk's Straits, except from such ports as shall be from time to time appointed by the Governor, by an order published in the "Government Gazette;" and the master or tindal of any vessel who shall take on board passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above mentioned shall be liable to a fine not exceeding two pounds for each passenger embarked.

9. It shall be at the discretion of the collectors of customs for the ports appointed for shipping passengers, or such other persons as the Governor may from time to time appoint for the purpose, to grant licenses to vessels under this Ordinance. The license shall describe the vessel, her tonnage and rig, the number of her boats, anchors, and cables, also the name of the owner and of the master or tindal, and the number of the crew, and shall specify the number of passengers she may carry and the space to be assigned for their accommodation: Provided, if any doubts shall arise whether any vessel about to proceed with passengers as aforesaid is seaworthy, so as to be fit for her intended voyage, and such doubts shall not be removed to the satisfaction of the collector of customs at the port from which such vessel is to be cleared out, it shall be lawful for such collector to cause such vessel to be surveyed by such person as shall be appointed by the Governor for that purpose, and if it shall be reported by such person that such vessel is not seaworthy with reference to such voyage, such vessel shall not be cleared out until such vessel shall have been rendered seaworthy.

Grant of license to vessels.

10. The master or tindal of any vessel licensed to carry passengers from any port in Ceylon to any port or place in India in the Gulf of Manaar or Palk's Straits who shall proceed on any such voyage without having laid in a supply of water and provisions for the passengers, according to a scale to be fixed by the collector of customs for such port, or such other person as the Governor may from time to time appoint for the purpose, and which shall be hung up at the custom house of the port, shall be liable to a fine not exceeding ten pounds.

Supply of provisions on board passenger vessels plying to and from Ceylon, &c.

11. The master or tindal of any vessel licensed to carry passengers as herein-before provided shall sign and deliver, in duplicate, to the principal officer of customs at the place of embarkation, or such other person as the Governor may from time to time appoint for the purpose, a list, according to the form annexed to this Ordinance, of all passengers to be conveyed in such vessel, and such officer, after satisfying himself of the correctness of the same, and that the number of passengers authorised is not exceeded, shall countersign and return one such list to the master or tindal, to be produced to the proper officer at the port to which the vessel is bound; and should any additional passengers engage to proceed by such vessel after such list has been so countersigned, the master or tindal may insert their number in the original list, obtaining the signature of the controlling officer as before. The officer in charge of the customs may withhold the port clearance till this provision is complied with.

List of passengers to be signed by master.

Additional passengers.

12. The principal officer in charge of the customs at the port of embarkation, or any person authorised by him, shall be at liberty at all times to enter and inspect any passenger vessel and the fittings, provisions, and stores therein, and to muster the passengers and crew, and whoever impedes such entry, inspection, or muster, or refuses to allow the same, shall be liable to a fine not exceeding five pounds.

Penalty for impeding entry or inspection.

Passenger Vessels.

Penalty on landing passenger at a place other than at which he has contracted to land.

13. If any passenger in any vessel shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea, or other unavoidable accident, the master shall for each offence be liable to a penalty not exceeding twenty pounds.

Passenger's right of action preserved.

14. Nothing in this Ordinance contained shall take away or abridge any right of action which may accrue to any passenger or to any other person in respect of the breach or non-performance of any contract made with the master or owner of the vessel or his agent.

Adjudication of offences and recovery of penalties.

15. Any offence against this Ordinance, though the same may be beyond the jurisdiction of a police court, by reason of the amount of punishment to which the offender is liable, shall and may nevertheless be inquired into, tried, and punished by the police court of the district in which the offence was committed, wholly or in part, or where the offender is found ; and any fine imposed on the master or tindal of any vessel for a breach of this Ordinance, may be recovered from the owner of such vessel or from his agent ; and if the person directed to pay any penalty is the master or tindal of a vessel, and the same is not paid at the time and in the manner prescribed by the order of payment, the court ordering such payment may, in addition to the means prescribed by law for enforcing payment, direct, by warrant, the amount remaining unpaid to be levied by distress and sale of the said vessel, her tackle, furniture, and apparel.

Sum ordered to be paid leviable by distress on vessel.

Application of penalties.

16. Any police magistrate imposing any penalties under this Ordinance may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

SCHEDULE.

FORM.

1. Name of Vessel.	2. Name of Master.	3. Tons per Register.	4. Port of Embarkation.	5. Number.	6. Port at which Passengers have contracted to be landed.	7. Date of Departure.	—

26th September 1860.

113.

No. 2 OF 1861.

An Ordinance to repeal the Ordinance No. 23 of 1844, and to enable Bankers to compound for the Stamp Duties payable on Notes and Bills issued by them.

WHEREAS it is expedient to repeal the Ordinance No. 23 of 1844, entitled "An Ordinance for exempting certain written instruments employed by persons carrying on the business of bankers from payment of certain Duties, and for enabling such persons to make composition in lieu of Stamp Duties on certain Promissory Notes and Bills of Exchange," and to enable bankers authorized to issue promissory notes and bills of exchange in Ceylon to issue the same unstamped: It is hereby enacted as follows: Preamble.

1. Has had its effect.

2. Repealing clause.

3. The word "banker" as used in this Ordinance shall be deemed and taken to include any banking corporation or company. Interpretation clause.

4. It shall be lawful for the banks now established in this island, (to wit, the Oriental Bank Corporation, and the Chartered Mercantile Bank of India, London, and China,) and any other bank named in any proclamation to be issued by the Governor in manner herein-after provided, or for the agent or manager thereof, having first obtained a certificate as herein-after provided from the Commissioner of Stamps of this Colony, to issue on unstamped paper promissory notes for any sum of money amounting to ten shillings or upwards, expressed to be payable to bearer on demand or to order, at any period not exceeding seven days after sight, and also to draw and issue on unstamped paper bills of exchange expressed to be payable to order on demand, or at any period not exceeding seven days after sight, or twenty-one days after the date thereof: Provided such bills of exchange be drawn upon a banker in Colombo, or provided such bills be drawn by any banker, or the agent of any banker, at any place within this Colony, upon such banker or his copartners, payable at any other place also within this Colony. What banks may issue unstamped notes.

5. All such unstamped notes and bills may be re-issued as often as shall be required. Notes and bills to be re-issuable.

6. Provided that if any banker who shall take out a certificate under the authority of this Ordinance shall issue under the authority of this or any other Ordinance any unstamped promissory notes for payment of money to the bearer on demand, such banker shall for the period of time to which such certificate shall extend make and issue on unstamped paper all his promissory notes for payment of money to the bearer on demand, of whatever amount such notes may be, and it shall not be lawful for such banker during the period aforesaid to issue, for the first time, any such promissory note as aforesaid on stamped paper. Bankers while licensed not to issue notes on stamped paper.

Composition to be paid for the privilege of issuing unstamped notes and bills.

7. Every banker issuing unstamped notes and bills as aforesaid shall be liable to pay every half year, to the Commissioner of Stamps, for the use of Her Majesty, her heirs and successors, as a composition for the stamp duties which would otherwise have been payable for such promissory notes and bills of exchange, the sum of ten shillings for every one hundred pounds, and also for the fractional part of one hundred pounds, of the average amount or value of such notes and bills issued and in circulation during such half year; and the said composition shall be secured by bond to be entered into by such banker, which bond shall be substantially in the form and with the condition set out in the form A. in the schedule to this Ordinance annexed.

Composition to be secured by bond.

Duration of certificate.

8. On the banker entering into such bond the Commissioner of Stamps shall issue a certificate in the form B. in the schedule to this Ordinance annexed; and such certificate shall have effect and continue in force from the day of the date thereof until the same day of the same month in the year next following, both days inclusive, and no longer.

For what period notes and bills are to be deemed to be in circulation.

9. Every unstamped promissory note payable to the bearer on demand, issued under the provisions of this Ordinance, shall, for the purpose of payment of duty, be deemed to be in circulation from the day of the issuing to the day of the cancelling thereof, both days inclusive, excepting nevertheless the period during which such note shall be in the hands of the banker who first issued the same, or by whom the same shall be expressed to be payable; and every unstamped promissory note payable to order, and every unstamped bill of exchange so issued as aforesaid, shall for the purpose aforesaid be deemed to be in circulation from the day of the issuing to the day of the payment thereof, both days inclusive: Provided always, that every such promissory note payable to order and bill of exchange as aforesaid, which shall be paid in less than seven days from the issuing thereof, shall for the purpose aforesaid be included in the account of notes and bills in circulation on the Saturday next after the day of the issuing thereof, as if the same were then actually in circulation.

Regulations respecting the bonds to be given by bankers.

10. In every bond to be given pursuant to the provisions of this Ordinance, the person or persons intending to issue any such unstamped promissory notes, or to draw or issue any such unstamped bills of exchange as aforesaid, or such or so many of the said persons as the Commissioner of Stamps shall require, shall be the obligors; and every such bond shall be taken in the sum of one hundred pounds, or in such larger sum as the said Commissioner may judge to be the probable amount of the composition for duties that will be payable from such person or persons under or by virtue of this Ordinance during the period of one year; and it shall be lawful for the said Commissioner to fix the time or times of payment of the said composition, and to specify the same in the condition to every such bond; and every such bond may be required to be renewed from time to time at the discretion of the said Commissioner, and as often as the same shall be forfeited, or the parties to the same or any of them shall die, become insolvent, or reside out of this Colony.

11. If any alteration shall be made in any copartnership of persons who shall have given any such security by bond as aforesaid, whether such alteration shall be caused by the death or retirement of one or more of the partners of the firm, or by the accession of any additional or new partner, a fresh bond shall be given by the remaining partner or partners, or the persons composing the new copartnership, as the case may be, which bond shall be taken as a security for the duties which may be due and owing, or may become due and owing, in respect of the unstamped notes and bills which may have been issued by the persons composing the old copartnership, and which shall be in circulation at the time of such alteration, as well as for duties which shall or may be or become due and owing in respect of the unstamped notes and bills issued or to be issued by the persons composing the new copartnership : Provided that no such fresh bonds shall be rendered necessary by any such alteration as aforesaid, in any copartnership of persons exceeding six in number, but that the bonds to be given by such last-mentioned copartnerships shall be taken as securities for all the duties they may incur, so long as they shall exist, or the persons composing the same or any of them shall carry on business in copartnership together, or with any other person or persons, notwithstanding any alteration in such copartnership, saving always to the Commissioner of Stamps the power of requiring a new bond in any case where he shall deem it necessary for better securing the payment of the said duties.

Fresh bonds to be given on alteration of partnership.

12. If any person who shall have given security by bond to Her Majesty as aforesaid shall refuse or neglect to renew such bond when forfeited, and as often as the same is by this Ordinance required to be renewed, he shall for every such offence forfeit a sum not exceeding fifty pounds.

Penalty on bankers neglecting to renew their bond.

13. If any banker acting under the provisions of this Ordinance shall draw or issue, or cause to be drawn or issued, upon unstamped paper any promissory note payable to order, or any bill of exchange, which shall bear date subsequently to the day on which it shall be issued, he shall for every such note or bill forfeit the sum of fifty pounds.

Penalty on bankers post dating unstamped notes and bills.

14. Nothing in this Ordinance contained shall be deemed or construed to exempt or relieve from the forfeitures or penalties imposed by any Ordinance in force upon persons issuing promissory notes or bills of exchange, not duly stamped as the law requires, any person who under any colour or pretence whatever shall issue any unstamped promissory note or bill of exchange, unless such person shall hold a certificate under the provisions of this Ordinance, and unless such note or bill shall be drawn and issued in strict accordance with the regulations and restrictions herein contained.

Ordinance not to exempt from penalties persons issuing unstamped notes, or bills not in accordance herewith.

15. Whenever any banker shall be authorised, either by any charter or letters patent from the Crown, or by any Ordinance enacted in this Colony, to issue notes, it shall be lawful for the Governor by proclamation to be by him issued, with the advice and consent of the Executive Council, to notify the same, and to declare that such banker is entitled to be admitted to the privi-

Governor may by proclamation bring other licensed banks under this Ordinance.

leges by this Ordinance conferred; and upon such proclamation being made, and the banker complying with the requisites of this Ordinance, he shall become subject to its provisions, and liable to conform thereto, and be chargeable with the penalties imposed thereby, as fully as if he had been expressly referred to herein.

SCHEDULE.

A.

Know all men by these presents, that we are held and firmly bound unto Our Sovereign Lady Queen Victoria, her heirs and successors, in the sum £ , for the payment of which we bind ourselves jointly and severally our heirs, executors, and administrators firmly by these presents.

The condition of this obligation is such that if the above-bounden do and shall from time to time enter or cause to be entered in a book or books to be kept for that purpose an account of all unstamped promissory notes expressed to be payable to the bearer on demand, or to order, at any period not exceeding seven days after sight, and of all unstamped bills of exchange expressed to be payable to order on demand, or at any period not exceeding seven days after sight, or twenty-one days after the date thereof, as he shall issue or draw, specifying the amount or value thereof respectively, and the several dates of the issuing thereof; and in like manner also a similar account of all such promissory notes as, having been issued as aforesaid, shall have been cancelled, and the dates of the cancelling thereof, and of all such bills of exchange as, having been drawn or issued as aforesaid, shall have been paid, and the payments thereof, and do and shall from time to time, when thereunto requested, produce and show such accounts to, and permit them to be examined and inspected by, the Commissioner of Stamps; and also do and shall deliver to the commissioner half-yearly (that is to say) within fourteen days after the first day of January and the first day of July in every year, a just and true account in writing verified upon the oaths to the best of the knowledge and belief of the said and of his manager, cashier, and accountant, a chief clerk, or of such of them as the said commissioner shall require, of the amount or value of all unstamped promissory notes and bills of exchange issued under the authority of the Ordinance No. of, in circulation, within the meaning of the said Ordinance, on a given day (that is to say) on Saturday in every week, for the space of half a year prior to the half-yearly day immediately proceeding the delivery of such accounts, together with the average amount or value of such notes and bills so in circulation according to such account; and also do and shall pay or cause to be paid to the said commissioner, as a composition for the stamp duties which would otherwise have been payable for such promissory notes and bills of exchange issued or in circula-

tion during such half year the sum of for every one hundred pounds and also for the fractional part of one hundred pounds of the said average amount or value of such notes and bills in circulation, according to true intent and meaning of the said Ordinance; on due performance thereof this obligation shall be void, otherwise it shall be and remain in full force and virtue.

Given under our hands, at Colombo, this day of A.D. 186 .

Witnesses. *A.B.*
G.H. *C.D.*
I.J. *E.F.*

B.

I, *A.B.*, Commissioner of Stamps, do hereby certify that hath complied with the provisions of the Ordinance No. entitled and hath become entitled to issue unstamped promissory notes and bills in pursuance of the said Ordinance.

Dated this day of A.D. 186 . *A.B.*

28th August 1861.

114.

No. 3 of 1861.

An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof.

Whereas certain of Her Majesty's loyal subjects are desirous of associating and enrolling themselves as military corps, and it is expedient to authorize the Governor to accept their services, and to provide for the establishment, maintenance, good order, and discipline of the said corps: It is enacted as follows: Preamble.

1. Has had its effect.

2. Whenever any number of persons not less than thirty shall, by petition addressed to the Governor, express their willingness to form themselves into a corps and to submit to the provisions of this Ordinance, and to such rules and regulations as shall be made in pursuance of the powers given by it, and shall pray the Governor to accept their services as volunteers and to permit their enrolment, it shall be lawful for the Governor, if he shall see fit so to do, to grant their petition and to signify his assent by proclamation to be published in the "Government Gazette," and to Governor to accept services of volunteers and to issue commissions to officers.

issue commissions appointing the persons named therein to be the officers of the corps and the commanding officer thereof, and, if need be, to join different corps into regiments, and to appoint the commanding officers thereof, under such conditions and according to such regulations as may be approved by the Governor.

Governor may disband corps or remove any member.

Proviso.

3. The Governor may disband any corps enrolled under the provisions of this Ordinance, or any part thereof, or remove from the corps any member thereof, whenever he shall think it necessary or proper so to do: Provided, however, that the whole or part so disbanded, or the member removed, shall remain subject to the liabilities imposed upon such as shall be disbanded or removed by this Ordinance, or by any rules or regulations to be made in pursuance of the powers given by it.

Governor may call out volunteer corps, and when called out it must be under the orders of the officer commanding the forces.

4. The Governor may call out the volunteer force or any part thereof, whenever occasion may require, and when it is so called out it shall be placed and be liable to act under the orders of the senior officer in command of Her Majesty's troops in this Colony.

Volunteers or majority to make rules and regulations.

5. The rules and regulations of each corps shall be made by the persons forming such corps, or the majority thereof; and such rules and regulations shall make all such provisions as are not specially enacted by this Ordinance, and as shall be necessary for the admission and enrolment of volunteers, the management of the corps, and the fulfilment of the objects of its formation: Provided that such rules and regulations shall not be repugnant to or inconsistent with this Ordinance.

Rules and regulations to be submitted to Governor for approval.

6. The commanding officer of each corps shall transmit to the Governor such rules and regulations as shall from time to time be made by the corps; and it shall be lawful for the Governor, with the advice and consent of the Executive Council, to allow, reject, alter, or modify the same; and the rules and regulations so allowed, altered, or modified, shall be published in the "Government Gazette," and shall, when so published, be valid and binding upon the persons belonging to the said corps, and all other persons affected thereby, in such and the same manner as if such rules and regulations were embodied in this Ordinance.

Oath to be taken by volunteers.

7. Every person enrolled in any corps of volunteers, including the officers, shall, as soon as possible, take the following oath, or if he be not a Christian make the following affirmation, which oath or affirmation shall be administered by any justice of the peace having jurisdiction in the place where such oath shall be taken:

I, *A.B.*, do sincerely promise and swear, (*or*, do solemnly, sincerely, and truly affirm and declare, *as the case may be*,) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, and that I will faithfully serve Her Majesty in Ceylon for the defence thereof against all her enemies and opposers whatever.

Appointment of non-commissioned officers.

8. The commanding officer of each corps shall appoint the non-commissioned officers necessary for the due working of the said corps.

9. Every person shall be deemed an effective member of the volunteer corps who is enrolled and serves as such for the time and in the manner directed by the rules and regulations, and shall be duly returned and certified as such by the commanding officer of the corps.

Who are effective members of the corps.

10. Every volunteer corps shall be liable to be inspected once at least within six months by the officer commanding Her Majesty's regular forces, or by some field officer authorized thereunto by him.

Liability to be inspected.

11. All commanding officers of volunteers shall on the first day of May in every year, or within fourteen days thereafter, make returns to the Governor showing the state and strength of the corps, and certify the same to be true, and every commanding officer shall in such return specially state the number of men on the establishment, and also the number of supernumeraries allowed in such corps, and shall also distinguish the effective from the non-effective members, and shall state the names of all such as shall have been admitted into, and all such as have joined, their respective corps since the last return, and the names of all persons absent on leave, and also the names of all persons who shall have been discharged from or shall have quitted the corps since the last return, and shall also at such period make to the senior officer commanding the troops of Her Majesty's regular forces in this Island accurate returns of their respective corps, specifying the numbers of the effective and non-effective men at the time of making such returns; and all such returns shall be made as near as may be according to the description of the corps in the form in which the monthly military returns are usually made.

Commanding officers to make returns.

12. General courts martial shall be convened and appointed by the commanding officer of the regiment, if there be one, with the sanction of the Governor, or by the Governor, if there be no commanding officer of the regiment, for the trial of military offences of which any volunteer shall be guilty whilst on actual duty; and no sentence of such court martial shall be put into execution until after a report of the whole proceedings shall have been made to and the sentence shall have been confirmed by the Governor. The Governor may commute any such sentence for a less punishment, or pardon the offender.

Appointment of and sentences by general courts martial.

13. General courts martial shall consist of not less than thirteen members of the corps or regiment, and every member of the corps or regiment, whether an officer or not, shall be competent to sit and act as a member of such courts martial.

General court martial of whom to be composed.

14. Regimental courts martial may be convened by the commanding officer of the corps, and shall consist of not less than three members of the corps.

Regimental courts martial.

15. The proceedings of courts martial convened under this Ordinance shall be conducted according to the laws and customs applicable to courts martial held under the Mutiny Act and Articles of War, except so far as the same are inconsistent with the provisions of this Ordinance.

Proceedings of courts martial.

Volunteers guilty of military offences in cases of invasion, &c. to be subject to Articles of War so far as they apply to officers.

Proviso.

16. Every member of any such corps enrolled according to the provisions of this Ordinance shall for all military offences of which he shall be guilty, when warned for actual duty in cases of actual invasion, or of any appearance of any enemy on the coast of Ceylon, or of rebellion or insurrection arising or existing within the same, or whilst on actual duty in such cases as aforesaid, be subject to the Mutiny Act and Articles of War, so far as the same are applicable to officers and consistent with the provisions of this Ordinance: Provided that no such person shall for any offence be subject to the punishment of death, instead of which it shall be competent for the general court martial before which such member shall be tried to award such lighter punishment than death as the court shall deem fit.

Volunteers guilty of military offences in other cases to be subject to fine and dismissal.

17. If in cases other than those referred to in the preceding section any member of such corps shall be guilty of any military offence except as is herein-after excepted, he shall be liable, upon conviction by a general court martial, to a fine not exceeding 10*l.*, or to simple dismissal from the corps, or to dismissal from the corps as unworthy to belong to it.

Volunteers not attending drill or parade, or guilty of minor offences, subject to fine.

18. If any member of such corps shall without reasonable excuse neglect to attend drill or parade at such times as may be appointed for that purpose, or shall be guilty of any neglect of duty or misconduct, or other military offence which in the judgment of the commanding officer of the corps will be sufficiently punished by a small fine, he shall be liable to pay such sum, not exceeding 5*l.*, as a regimental court martial shall adjudge: Provided that the commanding officer of the corps may, instead of trying any such member so guilty as aforesaid by a regimental court martial, summarily order him to pay a fine not exceeding five shillings.

When commanding officer may order volunteers into custody.

19. Every person who shall not during the time of training and exercise, or of being under arms, or wearing the clothing or accoutrements of the corps, conduct himself in a decent and orderly manner, or shall not obey the lawful command of the commanding officer thereof, may be ordered by him into the custody of any persons belonging to such corps for the time during which it shall remain under arms.

Dismissal for nonpayment of fine.

20. In case any member of such corps shall neglect or refuse to pay any fine to which he shall be sentenced by any court martial, within such time as shall be fixed by such court martial, he may be dismissed by the commanding officer of the corps from such corps, and every dismissal shall be recorded and reported to the Governor: Provided that such dismissal shall be no bar to the recovery of the fine in the manner herein-after provided.

When volunteers may quit the corps.

21. Any volunteer may at any time, except whilst on actual duty, quit the corps, and he shall accordingly be struck out of the muster roll of such corps in the manner and under the conditions herein-after mentioned.

Conditions of quitting.

22. No person shall be entitled to quit any corps without giving fourteen days' notice in writing of his intention to the commanding officer of the corps, unless such commanding officer shall dispense with such notice: Provided that it shall be lawful

for the Governor to allow any volunteer to quit the corps at any time and under any circumstances, subject to such conditions as the Governor shall see fit to impose.

23. All persons enrolled in any corps of volunteers when called out on actual duty by the Governor shall be entitled to pay in such manner and after such rates and conditions, and to be quartered and billeted in like manner in every respect, and under and subject to the same regulations, as Her Majesty's other forces, as far as the same shall by the Governor be deemed applicable to the volunteer corps.

Volunteers when called out on service to be entitled to pay and quarters.

24. All persons enrolled, and who shall when called out on such actual duty as aforesaid leave families unable to support themselves, shall during the period of their absence or service on military duty be entitled to relief for their wives and families, and it shall be lawful for the Governor to fix the amount of such relief.

Relief to families of volunteers called out on service.

25. Whenever any person enrolled as aforesaid shall be called out on actual duty as aforesaid away from his place of residence, he shall be entitled to receive, if willing to do so, his travelling expenses from and to such residence, and it shall be lawful for the Governor to fix the rate and amount of such expenses.

When travelling expenses are payable to volunteers.

26. All commissioned officers of volunteers who shall be disabled when called out on actual duty as aforesaid, and all non-commissioned officers, drummers, and private men of any corps of volunteers so disabled, and the widows and families of all such commissioned officers, non-commissioned officers, drummers, and private men of any corps of volunteers killed in such actual duty, shall be entitled to such pensions as shall be fixed by the Governor.

Pensions to volunteers disabled on service and to the widows and families of those killed on service.

27. No toll shall be demanded or taken for the horses, animals, or conveyances of volunteers going to or returning from the performance of any military duty, or for any vehicles employed in conveying the arms, ammunition, accoutrements, uniforms, provisions, and baggage which are *bonâ fide* the property of the corps and to be used by the volunteers: Provided that in the former case every volunteer claiming such exemptions be at the time dressed in the uniform of his corps, or armed and accoutred according to the regulation provided for such corps; and in the latter case the person or persons in charge of the vehicles shall present, at the time of claiming the exemption, a certificate from the commanding officer of the corps or detachment and signed by him, setting out that the property conveyed by the vehicles is *bonâ fide* the property of the corps, and to be used by the volunteers as such.

Exemption from toll.

28. Letters being strictly on Her Majesty's service, and bearing on the outside or cover thereof the signature of any commissioned officer of the volunteer corps from whom they shall have been sent, and also words or letters indicating that such letters are on Her Majesty's service only, will be received and forwarded by any post office in the Island free of postage. And should any private note or private communication of any sort or kind whatever be written or printed on or contained in any such

Exemption from postage.

official letter, it shall be deemed an offence, and any person found guilty thereof will be liable, on conviction, to any fine not exceeding 5*l.*

Exemption from customs duty.

29. All arms, ammunition, accoutrements, or uniforms consigned to any officer of the volunteer corps, being the property of the corps, are to be passed by the customs duty free, on the officer to whom they are consigned delivering to the Collector of Customs a list of the articles, and certifying at the foot thereof that they are *bonâ fide* the property of the corps: Provided always, that all such property shall, in case of the sale thereof after importation, be liable to and be charged with such and the same duties of customs as may by law be payable or charged on the like property, not being the property of the volunteer corps.

Place of deposit for arms, and persons to take care of them, provided at public expense.

30. The commanding officer of any corps receiving any arms or accoutrements supplied at the public expense or by subscription may, with the consent of the Governor, appoint proper places for depositing and safe keeping of the arms and accoutrements of the corps, and proper persons to repair and keep such arms in good condition; and all reasonable expenses incurred in placing and keeping them clean and in proper repair, order, and condition shall be paid from the General Treasury, upon warrant to be for that purpose issued by the Governor: Provided that it shall be lawful for the Governor to appoint any person or persons to inspect and report upon the state and condition of such arms and accoutrements, and to audit the account, and order such sums as expenses as he shall consider right.

Property of volunteer corps to be vested in commanding officer.

31. All money subscribed by or for the use of any corps, and all arms, stores, and ammunition, or other articles whatever belonging to or used by any such corps, not being the property of any particular individual, shall be vested in the commanding officer thereof for all purposes of indictment or action, criminal or civil, and shall for such purpose be deemed to be his property, and may be so described in an indictment, or may be sued for or recovered as such in any action; and no action shall be abated by the death, resignation, or removal of any commanding officer, but the same may be proceeded in by the succeeding commanding officer.

Volunteers to give up arms, &c. on quitting or being dismissed, or on corps being disbanded.

32. Every person who shall have received any arms, ammunition, accoutrements, or uniform, or other articles belonging to Government, or which shall have been furnished from the public stores or at the public expense, or at the expense of any subscriptions for providing such articles, shall, upon his quitting such corps, or upon his dismissal therefrom, or whenever he shall be required so to do by the commanding officer of the corps, or whenever the said corps shall be disbanded, deliver up to the commanding officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, uniform, or other article, in good order and condition, reasonable wear and tear thereof only excepted, and in default thereof he shall pay such sum of money as shall be adjudged by a regimental court martial to be assembled for that purpose by the commanding officer of the corps.

Volunteer Corps.

33. Every person quitting his corps, or being dismissed therefrom, or whenever the said corps shall be disbanded, shall nevertheless remain liable to all subscriptions and fines incurred by him under any of the provisions of this Ordinance, or any of the rules and regulations of his corps.

Volunteer liable to fines and subscriptions though he quits the corps, or is dismissed therefrom, or corps be disbanded.

34. If any volunteer shall neglect or refuse, on demand made for that purpose, to pay any sum which he may be condemned to pay by the sentence of a court martial, or any sum subscribed or required by any rules of such corps to be subscribed by him towards any expenses thereof, in such case any police magistrate residing in or near to the place in which such corps shall be, on application made for that purpose by any commanding or field officer, or adjutant or serjeant major, under any order of the commanding officer of any such corps, may direct such sum to be paid as a penalty, on a day to be named in an order to be for that purpose made by such police court and served upon such volunteer; and in default of his so paying the sum due by him, the police court shall and may proceed to recover the same in such and the same manner as any pecuniary penalty adjudged by police courts against any person is recovered.

Sums due by volunteers, how recoverable.

35. All sums levied as fines, penalties, or otherwise, under the provisions of this Ordinance, shall be paid to the commanding officer of the particular corps in respect of which such sums have been recovered, and shall go to the general stock of such corps to be applied in the general expenses thereof in like manner as any subscription or money may be applied; or where there shall be no such subscription or stock, then to any such purpose as the commanding officer may think fit.

Fines, &c. payable to commanding officers.

36. No suit, action, or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Ordinance, or for any act done in the real or alleged discharge of his duty as a member of the volunteer corps, without a month's previous notice in writing being given him of the intended action and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Notice of action and limitation thereof.

37. A certificate of enrolment in a volunteer corps signed by the commanding officer thereof shall be *primâ facie* evidence of such enrolment without any further proof.

Certificate of commanding officer to be evidence of enrolment.

38. If any person shall knowingly and wilfully hinder or obstruct or interfere with the march or evolutions of volunteers lawfully assembled, or injure the targets, shooting sheds, parade drill ground, rifle range, or other the property belonging to or in the charge of any volunteer corps, such person shall be guilty of an offence and subject to a fine not exceeding 5*l*.

Penalty for hindering volunteers or injuring their property.

39. If any person shall knowingly and wilfully buy, take in exchange, or otherwise receive any arms, accoutrements, or clothing, or any public stores or ammunition delivered for the use of any corps of volunteers, he shall for every offence be liable to a fine not exceeding five pounds.

Penalty for knowingly buying or receiving arms, &c.

Penalty for assaulting or resisting volunteers in the execution of their duty.

40. Whosoever assaults or resists, or aids or assists any person in assaulting or resisting, or incites any person to assault or resist, any volunteer in the execution of his duty, shall be guilty of an offence, and be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any term not exceeding six months.

4th September 1861.

115.

No. 4 OF 1861.

An Ordinance to promote the establishment of Joint Stock Companies, both with unlimited and limited liability.

Preamble.

WHEREAS it is expedient to promote the establishment of certain partnerships or joint stock companies, with or without limited liability, and to provide for the due registration of the above:

It is enacted as follows:

1. Has had its effect.

Short title.

2. This Ordinance may be cited for all purposes as the "Joint Stock Companies Ordinance, 1861."

Banking and insurance companies exempted.

3. This Ordinance shall not apply to persons associated together for the purposes of banking or insurance.

PART I.

Registration.

Registration.

4. The registration of companies shall be conducted as follows; (that is to say,)

(1.) The Governor may from time to time appoint such registrars, assistant registrars, clerks, and servants, as he may think necessary for the registration of companies under this Ordinance, and remove them at pleasure.

(2.) The Governor may, with the advice and consent of the Executive Council, make regulations with respect to the duties to be performed by any such registrars, assistant registrars, clerks, and servants as aforesaid, and may determine the place or places at which offices for the registration of companies are to be established.

(3.) There shall be paid to any registrar, assistant registrar, clerk, or servant that may hereafter be employed in the registration of joint stock companies, such salary as the Governor may direct: Provided that it shall be lawful for the Governor to direct the payment to them of fees instead of salary, and to apportion such fees amongst the officers respectively as he may think fit.

(4.) There shall be paid to the registrar of joint stock companies in respect of the several matters mentioned in the table marked A. in the schedule hereto the several fees therein specified.

(5.) Every person may inspect the documents kept by the registrar, and may require a copy or extract of any document or part of a document to be certified by the registrar, and there shall be paid for such inspection and for such certified copy or extract the respective fees specified in the said table A. Such certified copy or extract shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

(6.) Excepting in case the Governor shall otherwise direct, all fees authorized by and paid under this Ordinance shall be paid into the public treasury and carried to account as the Governor shall appoint.

(7.) Whenever any act is herein directed to be done to or by the registrar of joint stock companies such act shall, until a registrar of joint stock companies shall have been appointed, be done to or by the registrar of the Supreme Court, who shall until such appointment have the powers and be subject to the liabilities given to and imposed upon the registrar of joint stock companies.

PART II.

Constitution and Incorporation of Companies and Associations. Registry.

Company formed by memorandum of association and registration.

5. Seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisitions of this Ordinance in respect of registration and incorporation, procure themselves to be formed into an incorporated company with or without limited liability.

Penalty on partnerships exceeding a certain number.

6. Not more than twenty persons shall, after the passing of this Ordinance, carry on in partnership any trade or business having for its object the procurement of gain to the partnership, unless they are registered as a company under this Ordinance, or are incorporated or otherwise legally constituted by some Act of Parliament, royal charter, or letters patent; and if any persons do so carry on business contrary to this provision, every person so acting shall be severally liable for the payment of the whole debts of the partnership, and may be sued for the same without the joinder in the suit of any other member of the partnership.

Matters required to be prescribed by memorandum of association.

7. The memorandum of association shall contain the following particulars; (that is to say,)

1. The name of the proposed company.
2. The town in which the registered office of the company is to be established.
3. The objects for which the proposed company is to be established.

4. The liability of the shareholders, whether it is to be limited or unlimited.
5. The amount of the nominal capital of the proposed company.
6. The number of shares into which such capital is to be divided, and the amount of each share, subject to the following restriction :

That in the case of a company formed with limited liability, and herein-after called a limited company, the word "limited" shall be the last word in the name of the company.

Prohibition against identity of names in incorporated companies.

8. No company shall be incorporated under a name identical with that by which any other company shall have been incorporated, or so nearly resembling the same as to be calculated to deceive ; and if any company, through inadvertence or otherwise, is incorporated by a name identical with that by which a company shall have been previously incorporated, or so nearly resembling the same as to be calculated to deceive, such first-mentioned company may, with the sanction of the Governor, change its name; and upon such change being made the registrar shall enter the new name on the register, in the place of the former name ; but no such alteration of name shall affect any rights or obligations of the company, or of any member thereof, or render defective any legal proceedings instituted or to be instituted by or against the company ; and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.

Form of memorandum of association.

9. The memorandum of association shall be in the form marked B. in the schedule hereto, or as near thereto as circumstances admit, and it shall, when the company is incorporated, bind the company and the shareholders therein as if there were in such memorandum contained on the part of every shareholder, his heirs, executors, and administrators, a covenant to conform to all the regulations of such memorandum, subject to the provisions of this Ordinance.

Shares to be taken by subscribers of memorandum of association.

10. Every subscriber of the memorandum of association shall take one share at least in the company. The number of shares taken by each subscriber shall be set opposite his name in such memorandum of association, and upon the incorporation of the company he shall be entered in the register of shareholders herein-after mentioned as a shareholder to the extent of the shares he has taken.

Special regulations may be prescribed by articles of association.

11. The memorandum of association may be accompanied by, or have annexed thereto or indorsed thereon, articles of association, signed by the subscribers to the memorandum of association, and prescribing regulations for the company ; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations contained in the table marked C. in the schedule hereto, such last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the company, and shall bind the company and the shareholders therein to the same extent as if they had been inserted in articles of association and such articles had been registered.

12. The articles of association shall, when the company is incorporated, bind the company and the shareholders therein to the same extent as if there were in such articles contained, on the part of every shareholder, his heirs, executors, and administrators, a covenant to conform to all the regulations of such articles, subject to the provisions of this Ordinance.

Effects of articles of association.

13. The memorandum of association shall bear a stamp of five pounds, and the articles of association shall bear a stamp of one pound. Any person signing a printed copy of the memorandum of association or articles of association shall be deemed to have signed such memorandum and articles respectively, and where the proper stamp has been duly fixed on such memorandum of association or articles of association it shall not be necessary to stamp any printed copy so signed. The execution by any person of the memorandum of association or articles of association shall be attested by one witness at the least, and attestation by one witness shall be sufficient attestation.

Stamp on memorandum of association and articles of association, and use of printed copies.

14. In order to obtain incorporation, the memorandum of association, together with the articles of association (if any), must be delivered to the registrar, who shall transmit the same to the Governor, and shall cause the same to be published in the Gazette in three consecutive numbers. After such publication it shall be lawful for the Governor, with the advice and consent of the Executive Council, under the public seal of the island of Ceylon, to declare the company to be incorporated, which declaration shall be endorsed on the memorandum of association, and shall be in the form following:

How to obtain incorporation.

"Whereas the subscribers to this memorandum of association have done all things to entitle them to incorporation as a company, with limited (*or* unlimited, *as the case may be*) liability: Now know ye, that we, with the advice and consent of the Executive Council, do declare the said subscribers and their successors to be incorporated as the Company (Limited), under the provisions of the Joint Stock Companies' Ordinance, 1861."

The memorandum of association, with the declaration endorsed thereon, and the articles of association, shall thereupon be returned to the registrar, who shall register the same.

15. The registrar shall, on payment of five shillings, issue a certificate of incorporation of any company to any person applying for the same, and such certificate shall be admissible in evidence.

Certificate of incorporation issuable to any party.

16. Upon the declaration of incorporation being registered as aforesaid, the subscribers to the memorandum of association, together with such other persons as may from time to time become shareholders in the company, shall thereupon be a body corporate by the name prescribed in the memorandum of association and declaration of incorporation, having a perpetual succession and a common seal, with power to hold lands, but with such pecuniary liability on the part of the shareholders as is herein-after mentioned. The declaration of incorporation shall be conclusive evidence that all the requisitions of this Ordinance in respect of incorporation have been complied with, and the date of such declaration shall be deemed to be the date of the incorporation of the company.

Effect of registration.

Directors to be liable for debts, if dividend be paid when the company is known by them to be insolvent.

17. No dividends shall be payable except with the sanction of the directors; and if they shall declare and pay any dividend when the company is known by them to be insolvent, or any dividend the payment of which would to their knowledge render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office: Provided always, that the amount for which they shall all be so liable shall not exceed the amount of such dividend, and that if any director shall object thereto, and shall file his objection in writing with the clerk of the company, he shall be exempted from the said liability.

Issue of shares by company.

18. As soon as a certificate of incorporation has been granted the company may issue certificates of shares to the subscribers to the memorandum of association, and to all other persons to whom shares may be allotted, of such number and amount as may be prescribed by the memorandum of the association, but not of any greater number or amount. The shares so issued shall be moveable property, and shall not be of the nature of immoveable property, and each share shall be distinguished by its appropriate number.

Register of Shareholders.

Register of shareholders.

19. Every company registered under this Ordinance, hereinafter referred to as "the company," shall cause to be kept in one or more books a register of shareholders, and there shall be entered therein the following particulars:

(1.) The names, addresses, and occupations, if any, of the shareholders in the company, and the shares held by each of them, distinguishing each share by its number.
(2.) The amount paid on the shares of each shareholder.
(3.) The date at which the name of any person was entered in the register as a shareholder.
(4.) The date at which any person ceased to be a shareholder in respect of any share.

Annual list of shareholders on register.

20. Once at the least in every year a list shall be made of all persons who, on the 14th day succeeding the day on which the ordinary general meeting of the company, or if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings is held, are holders of shares in the company; and such list shall state the names, addresses, and occupations of all the persons therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:

(1.) The amount of the nominal capital of the company, and the number of shares into which it is divided.
(2.) The number of shares taken from the commencement of the company up to the date of the summary.
(3.) The amount of calls made on each share.
(4.) The total amount of calls that have been received.

(5.) The total amount of calls unpaid.
(6.) The total amount of shares forfeited.

The above list and summary shall be contained in a separate part of the register, and shall be in the form marked D. in the schedule hereto, or as near thereto as circumstances admit; such list and summary shall be completed within seven days after such fourteenth day as is mentioned in this section, and a copy thereof, authenticated by the seal of the company, shall forthwith be forwarded to the registrar, and any person may inspect and take copies of the same, subject to the regulations under which a person is herein-after declared to be entitled to inspect and take copies of any documents kept by the registrar.

Penalty on company not keeping a proper register.

21. If any company registered under this Ordinance makes default in keeping a register of shareholders, or in sending a copy of such list and summary as aforesaid to the registrar, in compliance with the foregoing rules, such company shall incur a penalty not exceeding 5*l.* for every day during which such default continues.

Restrictive definition of shareholder.

22. No notice of any trust express or implied or constructive shall be entered on the register, or receivable by the Company; and every person who has accepted any share in a company registered under this Ordinance, and whose name is entered in the register of shareholders, and no other person (except a subscriber to the memorandum of association in respect of the shares subscribed for by him), shall for the purposes of this Ordinance be deemed to be a shareholder.

Transfer of shares.

23. The transfer of any share in the company shall be in the form marked E. in the schedule hereto, or to the like effect, and shall be executed both by the transferor and transferee. The transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

Certificate of shares.

24. A certificate under the common seal of the company, specifying any share or shares held by any shareholder, shall be *primâ facie* evidence of the title of the shareholder to the share or shares therein specified.

Calls a debt to company.

25. The amount of calls for the time being unpaid on any share shall be deemed to be a debt due from the holder of such share to the company.

Inspection of register.

26. The register and annual list of shareholders, commencing from the incorporation of the company, shall be kept at the registered office of the company herein-after mentioned. Except when the register is closed as herein-after mentioned, it shall during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be appointed for inspection) be open to the inspection of any shareholder *gratis*, and to the inspection of any other person on the payment of one shilling or such less sum as the company may prescribe for each inspection; and every such shareholder or other person may require a copy of such register, or of any part thereof, on payment of sixpence for

every hundred words required to be copied. If such inspection or copy is refused, the company shall incur for each refusal a penalty not exceeding two pounds, and a further penalty not exceeding two pounds for every day during which such refusal continues.

Power to close register.

27. The company may, upon giving notice by advertisement in the "Government Gazette," close the register of shareholders for any time or times not exceeding on the whole twenty-one days in each year, and the period during which the books are closed shall not be reckoned as part of the time within which a transfer is to be registered.

Power of limited company to convert paid-up shares into stock.

28. Any limited company may by special resolution convert into stock any shares which have been fully paid up, and upon such conversion being made all the provisions of this Ordinance which require or imply that the capital of the company is divided into shares of any fixed amount, and distinguished by numbers, and which require the company to keep a register of shareholders, or to make an annual list of shareholders in the register, shall cease as to so much of the capital as has been so converted into stock.

Company to give notice of conversion of capital into stock.

29. Any company that has converted any portion of its capital into stock shall give notice of such conversion, specifying the shares so converted, to the registrar of joint stock companies, within fifteen days from the date of the last of the meetings at which the resolution was passed by which such conversion was authorized, and the registrar shall forthwith record the fact of such conversion. If such notice is not given within the period aforesaid the company shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues.

Register of holders of stock.

30. Any company that has converted any portion of its capital into stock shall keep at the registered office of the company a register of the names and addresses of the persons for the time being entitled to such stock, and such register shall be open to inspection in the manner and subject to the penalties in and subject to which the register of shareholders is directed to be kept open.

Remedy for improper entry or omission of entry in the register of stock.

31. If the name of any person is without sufficient cause entered or omitted to be entered in the register of stock of any company, such person, or any holder of stock in the company, may apply to have the register rectified in manner directed by the 32nd section.

Remedy for improper entry or omission of entry in register.

32. If the name of any person is without sufficient cause entered or omitted to be entered in the register of shareholders of any company, such person or any shareholder of the company may, by motion in the District Court of Colombo, apply to such court for an order that the register may be rectified; and the court may either refuse such application, with or without costs, to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the company to pay all the costs of such motion, and any damages the party aggrieved may have sustained; and if the company makes default or is guilty of unnecessary delay in registering any transfer of shares, they shall be responsible to any person injured by such default or delay for the amount of damage

he may thereby have sustained; and the court may, in any proceeding taken under this clause, decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or erased from the register, whether such question arises between two or more holders or alleged holders of shares or stock, or between any holders or alleged holders of shares or stock and the company, and generally the court may in such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register.

Register to be evidence.

33. The register of shareholders shall be evidence of any matters by this Ordinance directed or authorized to be inserted therein.

Copies of memorandum and articles of association to be given to shareholders.

34. Copies of the memorandum of association and articles of association shall be forwarded to every shareholder at his request, on payment of the sum of one shilling for each copy, or such less sum as may be prescribed by the company.

PART III.

Management and Administration of Companies. General.

Registered office of company.

35. The company shall have a registered office, to which all communications and notices may be addressed. If any company registered under this Ordinance carries on business without having such an office it shall incur a penalty not exceeding five pounds for every day on which business is so carried on.

Notice of situation of registered office.

36. Notice of the situation of such registered office and of any change therein shall be given to the registrar and be recorded by him; until such notice is given the company shall not be deemed to have complied with the provisions of this Ordinance with respect to having a registered office.

Publication of name by a limited company.

37. Every limited company registered under this Ordinance shall paint or affix, and shall keep painted or affixed, its name in the English, Singhalese, and Tamil languages, on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible, and shall have its name in the English language engraven in legible characters on its seal, and shall have its name mentioned in the English language, in legible characters, in all notices, advertisements, and other official publications of such company, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

Penalties on non-publication of name.

38. If any limited company registered under this Ordinance does not paint or affix, and keep painted or affixed, its name in manner aforesaid, it shall be liable to a penalty not exceeding five pounds for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed; and if any officer of such company, or any person on its behalf, uses any

seal purporting to be a seal of the company, whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of such company, or signs or authorizes to be signed on behalf of such company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty not exceeding fifty pounds, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof, unless the same is duly paid by the company.

General meeting of company.

39. A general meeting of the company shall be held once at the least in every year.

What accounts to be kept.

40. The directors shall cause true accounts to be kept of the stock in trade of the company, of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure takes place, and of the credits and liabilities of the company.

Balance sheets to be made out annually and filed with the registrar.

41. A balance sheet shall be made out and filed with the registrar of joint stock companies within twelve months after the incorporation of the company, and once at least in every year; afterwards, within twelve months from the filing of the balance sheet immediately preceding. Such balance sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to table C. in the schedule hereto, or as near thereto as circumstances admit.

Balance sheet to be signed and certified by the directors.

42. The balance sheet shall be signed by the directors, or any three or more of them, who shall certify at the foot thereof that the same, to the best of their belief, contains a true account of the capital and liabilities and of the property and assets of the company.

No dividend payable except out of profits.

43. No dividend shall be payable except out of the profits arising from the business of the company, including interest on capital.

Audit.

44. The accounts of the company shall be examined, and the correctness of the balance sheet ascertained, by one or more auditor or auditors, who shall certify at the foot of such balance sheet that the same, to the best of his or their belief, contains a true account of the capital and liabilities and of the property and assets of the company, or make special report thereon as he or they think necessary.

Inspection of balance sheet and of auditor's report.

45. A copy of every balance sheet and of the report thereon by the auditors shall be open to inspection in the same manner as the register of shareholders kept at such office.

Power of company to alter regulations by special resolutions.

46. Any company registered under this Ordinance may in general meeting from time to time, by such special resolution as is herein-after mentioned, alter and make new provisions in lieu of or in addition to any regulations of the company contained in the articles of association: Provided always, that such resolu-

tions so made shall be reported to the registrar to be registered by him.

47. A resolution shall be deemed to be a special resolution of the company whenever the same has been passed by three fourths in number and value of such shareholders of the company for the time being entitled to vote as may be present in person or by proxy (in cases where, by the regulations of the company, proxies are allowed) at any meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such shareholders for the time being entitled to vote as may be present in person or by proxy at a subsequent meeting of which notice specifying the intention to propose such confirmation has been duly given, and held at an interval of not less than one month nor more than three months from the date of the meeting at which such special resolution was first passed. Unless a poll is demanded by at least five shareholders, a declaration of the chairman of any such meeting as is mentioned in this section that a special resolution has been carried or confirmed shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall for the purposes of this section be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the company.

Definition of special resolution.

48. A copy of any special resolution that is passed by any company registered under this Ordinance shall be forwarded to the registrar and recorded by him; if such copy is not so forwarded within fifteen days from the date of the passing of the resolution, the company shall incur a penalty not exceeding two pounds for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded.

Registry of special resolutions.

49. A copy of any special resolution shall be given to any shareholder on payment of one shilling, or of such less sum as the company may direct.

Copies of special resolutions.

50. The company, if authorized so to do by its regulations, may increase its nominal capital in manner directed by such regulations, but notice of any increase so made shall be given to the registrar within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and the registrar shall forthwith record the amount of such increase. If such notice is not given within the period aforesaid, the company shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues.

Notice to registrar of increase of capital.

51. If any company registered under this Ordinance carries on business when the number of its shareholders is less than seven for a period of six months after the number has been so reduced, then every person who is a shareholder in such company during the time that it so carries on business after such period of six months shall be severally liable for the payment of the whole debts of the company contracted during such time, and may be

Prohibition against carrying on business with less than seven shareholders.

sued for the same without the joinder in the suit of any other shareholder.

Evidence of proceedings at meetings.

52. The company shall cause minutes of all resolutions and proceedings of general meetings of the company to be duly entered in books to be from time to time provided for the purpose, and any such minutes as aforesaid, if signed by any person purporting to be the chairman of such meeting, shall be receivable in evidence in all legal proceedings, and until the contrary is proved every general meeting in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened.

Legal Instruments of Company. Contracts.

Contracts, how made.

53. Contracts on behalf of any company registered under this Ordinance may be made as follows ; (that is to say,)

(1.) Any contract which would be by law required to be in writing may be made on behalf of the company in writing under the common seal of the company, and such contract may be in the same manner varied or discharged.

(2.) Any contract which would be by law required to be in writing, and signed by the parties to be charged therewith, may be made on behalf of the company in writing, signed by any person acting under the express or implied authority of the company, and such contract may in the same manner be varied or discharged.

(3.) Any contract which would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the company by any person acting under the express or implied authority of the company, and such contract may in the same way be varied or discharged.

Deeds and other Instruments.

Execution of deeds abroad.

54. Any company registered under this Ordinance may, by instrument or writing under their common seal, empower any person, either generally or in respect of any specified matters, as their attorney to execute deeds on their behalf in any place ; and every deed signed by such attorney on behalf of the company shall be binding on the company to the same extent as if it were under the common seal of the company.

Promissory notes or bills of exchange.

55. A promissory note or bill of exchange shall be deemed to have been made, accepted, or indorsed on behalf of any company registered under this Ordinance, if made, accepted, or indorsed in the name of the company by any person acting under the express authority of the company.

Mortgages registered under this Ordinance.

56. In any mortgage made by any company registered under this Ordinance, there shall be implied the following covenants (unless words expressly negativing such implication are contained

therein); that is to say, a covenant on the part of the company to pay the money thereby secured, and interest thereon, at the time and rate therein mentioned, a covenant that they have power to mortgage the property and that the same is free from incumbrances, and such mortgage may be in the form marked F. in the schedule hereto annexed, or as near thereto as circumstances admit.

57. In any conveyance made by any company registered under this Ordinance, there shall be implied (unless words expressly negativing such implication are contained therein) the following covenants on the part of the company; (that is to say,)

Conveyances registered under this Ordinance.

A covenant that, notwithstanding any act or default done by the company, they were at the time of the execution of such conveyance possessed of the lands or premises thereby conveyed as their own absolute property, free from incumbrances occasioned by them, or otherwise for such estate or interest as therein expressed to be conveyed, free from incumbrances occasioned by them.

A covenant that the person to whom such lands or premises are conveyed, his heirs, executors, administrators, and assigns (as the case may be), shall quietly enjoy the same against the company and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the company and their successors from all incumbrances occasioned by the company.

A covenant to warrant and defend the title of the person to whom such lands or premises are conveyed, his heirs, executors, administrators, or assigns, and to grant at its own expense such further deeds as may be necessary to render such conveyance effectual.

Examination of Affairs of Company.

58. Upon the application of one third in number and value of the shareholders of any limited company registered under this Ordinance, the Governor, with the advice and consent of the Executive Council, may appoint one or more competent inspectors to examine into the affairs of the company, and to report thereon in such manner as the Governor with the advice aforesaid directs.

Examination of affairs of company by inspectors appointed by the Governor.

59. It shall be the duty of all officers and agents of the company to produce, for the examination of the inspectors, all books and documents in their custody or power. Any inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly. If any officer or agent refuses to produce any such book or document, or to answer any question relating to the affairs of the company, he shall incur a penalty not exceeding five pounds in respect of each offence.

Power of inspectors.

60. Upon the conclusion of the examination the inspectors shall report their opinion to the Governor, who shall direct the same to be forwarded to the registrar. All expenses of and

Result of examination, how dealt with.

incidental to any such examination as aforesaid shall be defrayed by the shareholders upon whose application the inspectors were appointed.

Power of company to appoint inspectors.

61. Any company, whether limited or unlimited, registered under this Ordinance, may in general meeting appoint inspectors for the purpose of examining into the affairs of the company. The inspectors so appointed shall have the same powers, and perform the same duties as inspectors appointed by the Governor, with this exception, that instead of making their report to the Governor they shall make the same in such manner and to such persons as the company in general meeting directs; and the officers and agents of the company shall incur the same penalties, in case of any refusal to produce any book or document to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Governor. All expenses of and incidental to any examination to be made by the inspectors so appointed shall be defrayed by the company.

Report of inspectors to be evidence.

62. A copy of the report of any inspectors appointed under this Ordinance, authenticated by the seal of the company into whose affairs they have made inspection, shall be admissible as evidence in any legal proceeding.

Notices.

Services of notice on company and registrar.

63. Any summons or notice requiring to be served upon the company may, except in cases where a particular mode of service is directed, be served by leaving the same, or sending it through the post by letter addressed to the company, at their registered office, or by giving it to any director, secretary, or other principal officer of the company, and any notice to the registrar may be served by sending it to him through the post by letter, or by delivering it to him, or by leaving it for him at his office.

Rule as to notices by letter.

64. Notices by letter shall be posted in such time as to admit of the letter being delivered in the due course of delivery, within the period (if any) prescribed for the giving of such notice; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was put in the post office at such time as aforesaid.

Authentication of notices of company.

65. Any summons, notices, writ, or proceeding requiring authentication by the company may be signed by any director, secretary, or other authorized officer of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print.

Security for Costs.

Provision as to costs in actions brought by or against certain limited companies.

66. When a limited company is party to any suit, the judge, if it be proved to his satisfaction that there is reason to believe that if their opponent be successful the assets of the company will be insufficient to pay his costs, may require sufficient security to be given for such costs, and (if the limited company be plaintiff)

he may stay all proceedings until such security be given, or (if the limited company be defendant) he may refuse to admit the defence, and after the expiration of a stated time to be named by him to enable the company to furnish such security may, on their still failing to give security, treat the case as an undefended one.

PART IV.

Winding-up.—Preliminary.

Application of part 4 of Ordinance.

67. The provisions of this Ordinance relating to the winding-up of companies shall apply to all companies registered under this Ordinance, and not to any other companies.

Definition of "the court."

68. The expression "the court," as used in this Ordinance, shall mean the district court having jurisdiction in the place in which the registered office of the company is situate; and any court to which jurisdiction is given by this Ordinance shall in addition to its ordinary powers have the same power of enforcing any orders made by it in pursuance of this Ordinance as it has in relation to other matters within the jurisdiction of such court respectively.

Liability of present shareholders in respect of debts.

69. In the event of any company being wound up by the court or voluntarily, the existing shareholders shall be liable to contribute to the assets of the company to an amount sufficient to pay the debts and liabilities of the company, and the costs, charges, and expenses of winding up the same, with this qualification, that if the company is limited no contribution shall be required from any shareholder exceeding the amount, if any, unpaid on the shares held by him, and his proportion of the costs, charges, and expenses.

Liability of former shareholders in a company, other than a limited company, with respect to debts.

70. In the event of any company, other than a limited company, being wound up by the court or voluntarily, any person who has ceased to be a shareholder within the period of three years prior to the commencement of the winding-up, shall be deemed, for the purposes of contribution towards payment of the debts of the company, and the costs, charges, and expenses of winding up the same, to be an existing shareholder, and shall have in all respects the same rights and be subject to the same liabilities to creditors as if he had not so ceased to be a shareholder, with this exception, that he shall not be liable in respect of any debt of the company contracted after the time at which he ceased to be a shareholder.

Liability of former shareholders in a limited company with respect to debts.

71. In the event of any limited company being wound up by the court or voluntarily, any person who has ceased to be a holder of any share or shares within the period of one year prior to the commencement of the winding up, shall be deemed for the purposes of contribution towards payment of the debts of the company, and the costs, charges, and expenses of winding up the same, to be an existing holder of such share or shares, and shall have in all respects the same rights and be subject to the same liabilities to creditors as if he had not so ceased to be a share-

holder, with this exception, that he shall not be liable in respect of any debt of the company contracted after the time at which he ceased to be a shareholder.

Commencement of winding up company defined.

72. The winding up shall, if the company is wound up by the court, be deemed to commence at the time of the presentation of such petition as is herein-after required to be presented to the court, and if the company is wound up voluntarily, be deemed to commence at the time of the passing of the resolution authorizing such winding up.

Definition of "contributory" and legal character of his liability.

73. Any existing or former shareholder upon whom calls are authorized to be made by the fourth part of this Ordinance, is herein-after called "a contributory," and the representatives of any deceased contributory shall be liable in a due course of administration to the same extent as such contributory would be liable under the fourth part of this Ordinance, if alive.

Rights of contributories between themselves.

74. For the purpose of ascertaining the liability of existing and former shareholders as between themselves, the following rules shall be adopted in the absence of any express contract to the contrary; (that is to say,)

(1.) In the case of a company other than a limited company, every transferee of shares shall, in a degree proportioned to the shares transferred, indemnify the transferror against all existing and future debts of the company.

(2.) In the case of a limited company, every transferee shall indemnify the transferror against all calls made or accrued and due on the shares transferred subsequently to the transfer.

Winding up by Court.

Circumstances under which company may be wound up by court.

75. A company may be wound up by the court under the following circumstances; (that is to say,)

(1.) Whenever the company in general meeting has passed a special resolution requiring the company to be wound up by the court:

(2.) Whenever the company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year:

(3.) Whenever the shareholders are reduced in number to less than seven:

(4.) Whenever the company is unable to pay its debts:

(5.) Whenever three fourths of the capital of the company have been lost or become unavailable.

Company when deemed unable to pay its debts.

76. A company shall be deemed to be unable to pay its debts:

(1.) Whenever a creditor to whom the company is indebted in a sum exceeding 50*l.* has served due notice on the company, by leaving at their registered office a demand under his hand requiring the company to pay the sum so due, and the company have for the space of three weeks

succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor :

(2.) Whenever satisfaction of a judgment, decree, or order of any court in favour of any creditor in any suit or other legal proceeding cannot be obtained within ten days.

Application for winding up to be by petition.

77. Any application for the winding up of a company shall be by petition, and there shall be filed or lodged at the time when such petition is presented an affidavit verifying the same. Such petition may, in cases where the company is unable to pay its debts, be presented either by a creditor or a contributory, but where any other ground is alleged for winding up the company, a contributory alone is entitled to present the petition.

Course to be pursued by a court on petition by a creditor.

78. Upon the hearing of any petition presented by a creditor, the court may dismiss such petition, with or without costs, to be paid by the petitioner; or it may make an order directing the company, on a day to be named in the order, to pay or secure payment to the creditor of all monies that may be proved due to him, together with such costs as the court may direct; or the court may, if it so thinks fit, on the hearing of such petition, make an order for winding up the company in the first instance, or such other order as it deems just.

Order for winding up company on creditor's petition.

79. If at the expiration of the time named in such order such payment is not made, or security given, the court may thereupon make an order or decree for winding up the company.

Course to be pursued by court on petition of contributory.

80. Upon the hearing of a petition presented by a contributory, the court may dismiss such petition, with or without costs, to be paid by the petitioner, or it may make an order or decree directing the company to be wound up, or such other order or decree as it deems just.

Effect of the order for winding up company.

81. After the date of such order or decree for winding up the company, all suits and actions against the company shall, if the court so orders, be stayed; no director or other officer of the company shall without the sanction of the court dispose of any of the property or effects of the company, and no transfer of any shares shall be valid without the sanction of the court. A copy of such order or decree shall forthwith be reported by the company to the registrar, who shall make a minute thereof in his books relating to the company.

Collection and application of assets.

82. As soon as may be after making an order or decree for winding up the company the court shall cause the assets of the company to be collected, and applied in discharge of its liabilities, in a due course of administration.

Fraudulent preference.

83. Any such conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property as would, if made or done by any individual trader, be deemed in the event of his bankruptcy to have been made or done by way of undue or fraudulent preference of any creditor of such trader, shall, if made or done by or against any company registered under this Ordinance, be deemed, in the event of an order being made for winding up such company, to have been made or done by way

of undue or fraudulent preference of such credit of such company, and shall be invalid accordingly; and for the purposes of this section, the presentation of a petition for winding up a company shall be deemed to correspond with the filing of a petition for adjudication of insolvency in the case of an individual trader, and any conveyance or assignment made by any company registered under this Ordinance of all its estate and effects to trustees for the benefit of all its creditors shall be void to all intents.

Power of court to examine persons suspected of having property of company.

84. Before or after an order for winding up the company has been made, any person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court may deem capable of giving information concerning the trade, dealings, estate, or effects of the company, may be compelled to give evidence, and to produce any books, papers, deeds, writings, or other documents in his custody or power which may appear to the court requisite to the full disclosure of any of the matters which the court thinks necessary to be inquired into for the purpose of winding up the company, in the same manner as a witness may be compelled to give evidence and to produce documents in any action or suit depending in such court.

Penalty on falsification of books.

85. If any director, officer, or contributory of any company registered under this Ordinance destroys, mutilates, alters, or falsifies any books, papers, writings, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or other document belonging to the company, with intent to defraud the creditors or contributories of such company, or any of them, every person so offending shall be deemed to be guilty of an offence, and upon being convicted shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

Power to arrest shareholder about to abscond or to remove or conceal any of his property.

86. Where an order has been made for winding up a company under the fourth part of this Ordinance, if upon the application of the official liquidator it appears to the court having jurisdiction in the matter of such winding up that there is probable cause for believing that any contributory to such company is about to quit the Island, or otherwise abscond or conceal himself, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, the court may, by warrant directed to such person or persons as it thinks fit, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods, and chattels, to be seized, and him and them to be safely kept until such time as the court may order. Any contributory who has been arrested, or whose goods or chattels have been seized under any such warrant as aforesaid, may, at any time after such arrest or seizure, apply to the court that issued the warrant to discharge him from custody, or to direct the delivery to him of any books, papers, monies, securities for money, goods, or chattels, that may have been seized, and the court may order his discharge, or the release of his goods, upon such terms and subject to such conditions as it deems fit.

87. If any attachment, sequestration, or execution is issued against any company, by virtue whereof the property and effects of the company, or any of them, may be attached, sequestered, or taken in execution at any time within three months next before the filing or presentation of the petition for winding up the company, such attachment, sequestration, or taking in execution shall be void in favour of the liquidators of the company, as against the attaching, sequestrating, or execution creditor, whether the same has been completely executed or not; except that such creditor shall, if the attachment, sequestration, or execution would have been valid but for this provision, be entitled to receive out of any money already realized his costs of suit, and of the attachment, sequestration, or execution, or to proceed with the attachment, sequestration, or execution for the purpose of realizing such costs; but on satisfaction of such costs, or on tender of the amount by the liquidators to the creditor, it shall be lawful for the liquidators to recover the property so attached, sequestered, and taken in execution, and the proceeds of such property, or the residue thereof, as the case may be. If property seized upon such attachment, sequestration, or execution shall have already been sold, the proceeds shall be paid to the liquidators, less the costs of suit, and of the attachment, sequestration, or execution.

Attachments, sequestrations, and executions within three months of petition.

88. All books, accounts, and documents of the company, and of the liquidators herein-after mentioned, shall, as between the contributories of the company, be *primâ facie* evidence of the truth of all matters therein contained and purporting to be therein recorded.

Books of company to be evidence.

89. The court may, at any time after making an order or decree for winding up a company, and either before or after it has ascertained the sufficiency of the assets of the company, or the debts in respect of which the several classes of contributories are liable, make calls on all or any of the contributories to the extent of their liability for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the company, and the costs of winding it up; and it may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same, and every such call shall be deemed a debt due to the company.

Power of court to make calls.

90. Upon such calls being made the official liquidator or liquidators shall proceed immediately to collect the same, and shall monthly, or oftener, report to the court the names of defaulters, together with the amounts remaining unpaid of the calls made upon them respectively, and thereupon the said court shall order the payment of such calls or any of them within such time or times, and upon such notice or demand, by advertisements or otherwise, as the said court may think fit; and in case any contributory, whether subject to the ordinary civil jurisdiction of the court or not, shall neglect to pay any part of the call within the time fixed by the court for the payment thereof, and shall not within such time show to the court sufficient cause for the non-

Recovery of calls.

payment thereof, the said court may make an order upon such contributory for the payment of the amount due upon the call, and such order shall have the force and effect of a decree or judgment of the court, and may be executed accordingly.

Calls may be made upon former shareholders in respect of shares.

91. The court may at any time make calls upon any former holder of a share who is liable under section 70 or 71 of this Ordinance in respect of such share, as well as upon the existing holder of that share ; but any payment made or obtained from any contributory in respect of a share shall operate for the benefit of every other contributory in respect of such share.

Payment of money into the bank.

92. All monies received under the direction of the court on account of the sale or conversion of any of the assets of the company, or in respect of calls made on any contributories, or of any other matter, with the exception of such balance, if any, as the official liquidators may, with the sanction of the court, retain in their hands for the payment of current expenses, shall be paid into one of the banks as the court may direct ; and no money standing to such account shall be drawn except upon cheques signed in such manner as the court directs.

Power of the court to grant injunction or interdict.

93. The court may, at any time after the presentation of a petition for winding up a company, and either before or after making an order for winding up the same, upon the application of any creditor or contributory of such company, restrain further proceedings in any suit against the company, or appoint a receiver of the estate and effects of the company ; it may also, by notice or advertisement, require all creditors to present and prove their claims within a certain time, or be precluded from the benefit of any distribution which may be made before such claim is proved.

Power of court to stay proceedings.

94. The court may, at any time after an order has been made for winding up a company, upon the application of any creditor or contributory of the company, and upon proof to the satisfaction of the court that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Power of court to adjust rights of contributories.

95. As soon as the creditors are satisfied the court shall proceed to adjust the rights of the contributories amongst themselves, and to distribute any surplus that may remain amongst the parties entitled thereto ; and for the purposes of such adjustment it may make calls on the contributories to the extent of their liability for the payment of such sums as it deems necessary ; and it may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same. Nothing in this section shall preclude any former shareholder entitled to indemnity under section 74 of this Ordinance from enforcing such indemnity by due course of law.

Power of court to order costs.

96. The court may make such order as to the priority and payment out of the estate of the company of the costs, charges, and expenses incurred in winding up any company as it thinks just.

Official Liquidators.

Appointment of official liquidators.

97. For the purpose of conducting the proceedings in winding up a company and assisting the court therein, there shall be appointed a person or persons to be called an official liquidator or official liquidators, and such appointment shall be made as follows, that is to say :

(1.) The court having jurisdiction may, after requiring due security, should the court deem such security necessary, appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidators ; it may from time to time remove any person or persons so appointed, and fill up any vacancy occasioned by such removal, or by the death or resignation of any such appointee or appointees ; if one person only is appointed he shall have all the powers hereby given to several liquidators ; if more persons than one are appointed the court shall declare whether any act hereby required or authorized to be done by the official liquidators may be done by all or any one or more of such persons :

(2.) The court having jurisdiction shall, in the appointment of an official liquidator or official liquidators, consult the interest of both the creditors and contributories, and hear such creditors or contributories as it thinks fit to hear with respect to such appointment. It may, unless both the creditors and contributories concur in the appointment of a single liquidator, appoint one or more liquidator or liquidators to act on behalf of each of such parties. It may declare that in case of difference any act may be done by a majority of liquidators, or it may require the liquidators in all cases of difference to apply to the court. It may do anything hereby authorized to be done, either upon the first appointment of a liquidator or at any subsequent stage of the winding up ; but notwithstanding anything herein contained it shall not be obligatory on the court to appoint more than one liquidator.

Style and duties of official liquidators.

98. The official liquidator or liquidators shall be described by the style of the official liquidator or official liquidators of the particular company in respect of which he or they is or are appointed, and not by his or their individual name or names; he or they shall take into his or their custody all the property and effects of the company, and shall perform such duties in reference to the winding up of the company as may be imposed by the court.

Powers of official liquidators.

99. The official liquidator or liquidators shall have power with the sanction of the court to do the following things :

To bring or defend any action, suit, or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company :

To carry on the business of the company, so far as may be necessary for the beneficial winding up of the same :

To sell the immoveable and moveable property of the company by public or private contract, with power, if they think fit, to transfer the whole thereof to any person or company, or to sell the same in parcels :

To execute in the name and on behalf of the company all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal :

To refer disputes to arbitration, and compromise any debts or claims. Such power of compromising debts and claims shall be deemed to extend to the compromise of any calls or debts due from any contributory or alleged contributory to the company on receipt of a smaller sum in lieu of a greater, or upon such terms as may be agreed upon, with power to the liquidators to take any security for any calls or debts so due, and to give effectual discharges on completion of such compromise ; provided that no such compromise shall be made by any official liquidator without giving such notice to creditors, and subject to such conditions as to obtaining the consent of creditors, or any portion of them, as the court may direct, and that no such compromise shall be made by the liquidators appointed on the voluntary winding up of a company, except with the sanction of a special resolution :

To prove, claim, rank, and draw a dividend in the matter of the bankruptcy or insolvency or sequestration of any contributory for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance in the matter of insolvency or sequestration as a separate debt due from such insolvent, and rateably with the other separate creditors :

To draw, accept, make, and indorse any bill of exchange or promissory note, and also to raise upon the security of the assets of the company from time to time any requisite sum or sums of money ; and the drawing, accepting, making, or indorsing of every such bill of exchange or promissory note as aforesaid, on behalf of the company, shall have the same effect with respect to the liability of such company as if such bill or note had been drawn, accepted, made, or indorsed by such company in the course of carrying on the business thereof :

To do and execute all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

Appointment of clerks to assist official liquidators.

100. The official liquidators may, with the approval of the court, appoint such clerks or officers as may be necessary to assist them in the performance of their duties. There shall be paid to such agent, clerks, and officers such remuneration, by way of fees or otherwise, as may be allowed by the court.

Remuneration of official liquidator.

101. There shall be paid to the official liquidators such salary or remuneration by way of per-centage or otherwise, as the court directs.

Dissolution of company.

102. When the affairs of the company have been completely wound up, the Court shall make an order declaring the company to be dissolved from the date of such order, and the company shall be dissolved accordingly.

103. Any order so made shall be reported by the official liquidators to the registrar, who shall make a minute accordingly in his books of the dissolution of such company.

Registrar to make minute of dissolution of company.

104. The judges of the Supreme Court may, as often as circumstances require, make such rules concerning the mode of proceeding to be had for winding up a company, and the fees to be paid to advocates and proctors in respect thereof, as may from time to time seem necessary; but until such rules are made the general practice of the court, including its practice in insolvency cases, shall, so far as the same is applicable to and not inconsistent with this Ordinance, apply to all proceedings for winding up a company, and official liquidators shall be considered as occupying in all respects the place of an assignee.

Power of the judges of the Supreme Court to make rules.

Voluntary winding up of the Company.

105. A company may be wound up voluntarily—

Circumstances under which company may be wound up voluntarily.

(1.) Whenever the period, if any, fixed for the duration of the company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the company is to be dissolved:

(2.) Whenever the company in general meeting has passed a special resolution requiring the company to be wound up voluntarily.

Whenever a company is wound up voluntarily, the company shall, from the date of the commencement of such winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof; but its corporate state and all its corporate powers, shall, notwithstanding any provision to the contrary in its articles of association, continue until the affairs of the company are wound up.

106. Notice of any special resolution to wind up a company voluntarily shall be given in the "Government Gazette."

Notice of resolution to wind up voluntarily.

107. The following consequences shall ensue upon the voluntary winding up of a company:

Consequences of voluntary winding up.

(1.) The property of the company shall be applied in satisfaction of its liabilities, and subject thereto, and unless it be otherwise provided by the articles of association, be distributed amongst the shareholders in proportion to their shares:

(2.) Liquidators may be appointed for the purpose of winding up the affairs of the company and distributing the property:

(3.) The company in general meeting may appoint such person or persons as it thinks fit to be a liquidator or liquidators, and may fix the remuneration to be paid to them.

(4.) If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him.

(5.) When several liquidators are appointed every power hereby given may be exercised by any two of them:

(6.) The liquidators may, at any time after the passing of the resolution for winding up the company, and before they have ascertained the sufficiency of the assets of the company, or the debts in respect of which the several classes of contributories are liable, call on all or any of the contributories to the extent of their liability to pay all or any sums they deem necessary to satisfy the debts of the company and the costs of winding it up; and they may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(7.) The liquidators shall have all powers herein-before vested in official liquidators, and may exercise the same without the intervention of the court:

(8.) All books, papers, and documents in the hands of the liquidators shall, at all reasonable times, be open to the inspection of the shareholders:

(9.) When the creditors are satisfied the liquidators shall proceed to adjust the rights of the contributories amongst themselves; and for the purposes of such adjustment they may make calls on all contributories to the extent of their liability, for any sums they may deem necessary, and they may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10.) As soon as the affairs of the company are fully wound up the liquidators shall make up an account showing the manner in which such winding up has been conducted, and the property of the company disposed of; and such account, with the vouchers thereof, shall be laid before such person or persons as may be appointed by the company to inspect the same; and upon such inspection being concluded the liquidators shall proceed to call a general meeting of the shareholders for the purpose of considering such account; but no such meeting shall be deemed to be duly held unless one month's previous notice, specifying the time, place, and object of such meeting, has been published in the "Government Gazette:"

(11.) Such general meeting shall not enter upon any business except the consideration of the account; but the meeting may proceed to the consideration thereof notwithstanding the quorum required by any regulation of the company to be present at general meetings is not present thereat, and if on consideration the meeting is of opinion that the affairs of the company have been fairly wound up they shall pass a resolution to that effect, and thereupon the liquidators shall publish a

notice of such resolution in the "Government Gazette," and shall also make a return to the registrar of such resolution, and on the expiration of one month from the date of the registration of such return the company shall be deemed to be dissolved:

(12.) If within one year after the passing of the resolution for winding up the affairs of the company such affairs are not wound up, the liquidators shall immediately thereafter make up an account showing the state of the affairs, and the progress which has been made in winding up down to that date; and they shall add thereto a report stating the reason why the winding up has not been completed, and a general meeting shall be called to consider the same, and so on from year to year until the winding up of the affairs of the company is completed.

108. All costs, charges, and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims.

Costs to be paid out of assets in priority to all other claims.

109. The voluntary winding up of a company shall not prejudice the right of any creditor of such company to institute proceedings for the purpose of having the same wound up by the court.

Saving of rights of creditors.

110. All decisions and orders of the district and police courts, made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court; and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist, or shall be hereafter made by any rule or order of the Supreme Court.

Appeals may be taken against decisions or orders of district and police courts.

SCHEDULE.

FORM A.

Table of Fees.

	£	s.	d.
For registration of a company whose nominal capital does not exceed 1,000*l.* - - - -	5	0	0
For every 1,000*l.* of nominal capital, or part of 1,000*l.* after the first 1,000*l.*, and up to 100,000*l.*, an additional fee of - - - - -	0	5	0
For registration of any increase in the capital of a company, for every 1,000*l.* or part of 1,000*l.* up to 100,000*l.* in the whole - - - ..	0	5	0
For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for registering a new company.			

Joint Stock Companies.

	£	s.	d.
For registering any document hereby required or authorized to be registered, other than the memorandum of association - - - -	0	5	0
For making a record of any fact hereby authorized or required to be recorded by the registrar of companies, a fee of - - - - -	0	5	0
For inspection of any document kept by the registrar	0	1	0
For every certified copy or extract of such document, for every sheet of 120 words, or any less quantity -	0	0	9

B.

Memorandum of Association of the " *Company,*
Limited."

1. The name of the company is " Company, Limited."

2. The registered office of the company is to be established in

3. The objects for which the company is established are " to

4. The liability of the shareholders is limited.

5. The nominal capital of the company is *pounds,* divided into *one hundred* shares of *pounds* each.

We the several persons whose names and addresses are subscribed are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names and Addresses of Subscribers.		Number of Shares taken by each Subscriber.
1. *A.B.*	of	- 20
2. *B.C.*	of	- 25
3. *C.D.*	of	- 10
4. *D.E.*	of	- 10
5. *E.F.*	of	- 15
6. *F.G.*	of	- 10
7. *G.H.*	of	- 10
	Total shares taken	- 100

Dated the 22nd day of November 1861.

Witness to the above signatures,
A.B., No. 13,

C.

REGULATIONS FOR MANAGEMENT OF THE COMPANY.

Shares.

1 Every person taking any share in the company shall testify his acceptance thereof by writing under his hand, in such form as the company from time to time directs.

2. The company may from time to time make such calls upon the shareholders in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call by publication in the Gazette, and each shareholder shall be liable to pay the amount of calls so made to the persons and at the time and places appointed by the company.

3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If before or on the day appointed for payment any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of nine pounds per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The company may, if they think fit, receive from any of the shareholders willing to advance the same all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the company agree upon.

6. If several persons are joint holders of any share, any one of such persons may give effectual receipt for any dividend payable in respect of such share.

7. The company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of one shilling, be entitled to a certificate under the common seal of the company, specifying the share or shares held by him and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of one shilling.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

11. The executors or administrators or heirs of a deceased shareholder shall be the only persons recognized by the company as having any title to his share.

12. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of any female shareholder, or in any way other than by transfer, may be registered as a shareholder upon such evidence being produced as may from time to time be required by the company.

13. Any person who has become entitled to a share in any way, other than by transfer, may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

14. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such share.

15. The instrument of transfer shall be presented to the company, accompanied with such evidence as they may require to prove the title of the transferor, and thereupon the company shall register the transferee as a shareholder.

Forfeiture of Shares.

16. If any shareholder fails to pay any call due on the appointed day, the company may, at any time thereafter during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such nonpayment.

17. The notice shall name a further day, and a place or places, being a place or places at which calls of the company are usually made payable, on and at which such call is to be paid. It shall also state that in the event of nonpayment at the time and place appointed the shares in respect of which such call was made will be liable to be forfeited.

18. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the directors to that effect.

19. Any shares so forfeited shall be deemed to be the property of the company, and may be disposed of in such manner as the company think fit.

20. Any shareholder whose shares have been forfeited shall, notwithstanding, be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

Increase of Capital.

21. The company may, with the sanction of the company previously given in general meeting, increase its capital.

22. Any capital raised by the creation of new shares, shall be considered as part of the original capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on nonpayment of calls, or otherwise, as if it had been part of the original capital.

General Meeting.

23. The first general meeting shall be held at such time, not being more than twelve months after the incorporation of the company, and at such place as the directors may determine.

24. Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting, and if no other time or place is prescribed a general meeting shall be held on the first Monday in February in each year, at such place as may be determined by the directors.

25. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

26. The directors may whenever they think fit, and they shall, upon a requisition made in writing by any number of shareholders holding in the aggregate not less than one fifth part of the shares of the company, convene an extraordinary general meeting.

27. Any requisition so made by the shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

28. Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting; if they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

29. Seven days' notice at the least, specifying the place and the hour of meeting, and the purpose for which any general meeting is to be held, shall be given by advertisement, or in such other manner, if any, as may be prescribed by the company.

30. Any shareholder may, on giving not less than three days' previous notice of any resolution, submit the same to a meeting.

31. Such notice shall be given by leaving a copy of the resolution at the registered office of the company.

32. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business, and such quorum shall be ascertained as follows; that is to say, if the shareholders belonging to the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every additional five shareholders up to fifty; and one for every ten additional shareholders after fifty, with this limitation, that no quorum shall in any case exceed forty.

33. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved. In any other case it shall stand adjourned to the following day, at the same time and place; and if at such adjourned meeting the required number of shareholders is not present it shall be adjourned *sine die*.

34. The chairman (if any) of the board of directors shall preside as chairman at every meeting of the company.

35. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be chairman of such meeting.

36. The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

38. If a poll is demanded in manner aforesaid the same shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting.

Votes of Shareholders.

39. Every shareholder shall have one vote for every share up to ten; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

40. If any shareholder is a lunatic or idiot or prodigal he may vote by his curator; and if any shareholder is a minor he may vote by his guardian, or any one of his guardians, if more than one.

41. If one or more persons are jointly entitled to a share or shares, the person whose name stands first in the register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

42. No shareholder shall be entitled to vote at any meeting unless all calls due from him have been paid, nor until he shall have been possessed of his shares three months, unless such shares shall have been acquired, or shall have come by bequest, or by marriage, or by succession to an intestate's estate, or by operation of law, or by any deed of settlement, after the death of any person who shall have been entitled for life to the dividends of such shares.

43. Votes may be given either personally or by proxies; a proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a corporation under their common seal.

44. No person shall be appointed a proxy who is not a shareholder, and the instrument or mandate appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote; but no instrument or mandate appointing a proxy shall be valid after the expiration of one month from the date of its execution.

Directors.

45. The number of the directors and the names of the first directors shall be determined by the subscribers to the memorandum of association.

46. Until directors are appointed the subscribers to the memorandum of association shall for all the purposes of this Ordinance be deemed to be directors.

Powers of Directors.

47. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by this Ordinance or by the articles of association, if any, declared to be exercisable by the company in general meeting, subject, nevertheless, to any regulations of the articles of association, to the provisions of this Ordinance, and to such regulations being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Disqualification of Directors.

48. The office of director shall be vacated—

If he holds any other office or place of profit under the company:

If he becomes insolvent:

If he is concerned in or participates in the profits of any contract with the company:

If he participates in the profits of any work done for the company.

But the above rules shall be subject to the following exceptions:—That no director shall vacate his office by reason of his being a shareholder in any incorporated company which has entered into contracts with or done any work for the company of which he is director; nevertheless, he shall not vote in respect of such work or contract, and if he does so vote his vote shall not be counted, and he shall incur a penalty not exceeding twenty pounds.

Rotation of Directors.

49. At the first ordinary meeting after the incorporation of the company, the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one third shall retire from office.

50. The directors who are to retire during the first and second years ensuing the incorporation of the company shall, unless the directors agree among themselves, be determined by ballot; in every subsequent year the one third or other nearest number who have been longest in office shall retire.

51. A retiring director shall be eligible for re-election.

52. The company, at the general meeting at which any directors retire in manner aforesaid, shall fill up the vacated offices by electing a like number of persons.

53. If at any meeting at which an election of directors ought to

take place no such election is made, the meeting shall stand adjourned till the next day, at the same time and place ; and if at such adjourned meeting no election takes place, the former directors shall continue to act until new directors are appointed at the first ordinary meeting of the following year.

54. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation they are to go out of office.

55. Any casual vacancy in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

Proceedings of Directors.

56. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman, in addition to his original vote, shall have a casting vote. A director may at any time summon a meeting of the directors.

57. The directors may elect a chairman of their meetings and determine the period for which he is to hold office ; but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

58. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit, who shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed by the directors.

59. A committee may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

60. A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes the chairman shall, in addition to his original vote, have a casting vote.

61. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

62. The directors shall cause minutes to be made in a book or books provided for and used solely for that purpose—

1. Of all appointments of officers made by the directors:

2. Of the names of the directors present at each meeting of directors and committees of directors:
3. Of all orders made by the directors and committees of directors; and,
4. Of all resolutions and proceedings of meetings of the company, and of the directors and committees of directors.

And any such minute as aforesaid, if signed by any person purporting to be the chairman of any meeting of directors or committee of directors, shall be receivable in evidence without any further proof.

63. The company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and appoint another qualified person in his stead; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

64. The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

65. No dividends shall be payable except out of the profits arising from the business of the company, and with the sanction of the directors.

66. The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the company, or any part thereof, and the directors may invest the sum so set apart as a reserve fund upon such securities as they, with the sanction of the company, may select.

67. The directors may deduct from the dividends payable to any shareholder all such sums of money as may be due from him to the company on account of calls or otherwise.

68. Notice of any dividend that may have been declared shall be given to each shareholder, or sent by post or otherwise to his registered place of abode; and all dividends unclaimed for three years after having been declared, may be forfeited by the directors for the benefit of the company.

69. No dividend shall bear interest as against the company.

Accounts.

70. Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

71. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing

the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

72. A balance sheet shall be made out in every year, and laid before the general meeting of the company, and such balance sheet shall contain a summary of the property and liabilities of the company, arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

73. A printed copy of such balance sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

Audit.

74. The accounts of the company shall be examined, and the correctness of the balance sheet ascertained, by one or more auditors to be elected by the company in general meeting.

75. If not more than one auditor is appointed, all the provisions herein contained relating to auditors shall apply to him.

76. The auditors need not be shareholders in the company. No person is eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the company, and no director or other officer of the company is eligible during his continuance in office.

77. The election of auditors shall be made by the company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

78. The remuneration of the auditors shall be fixed by the company at the time of their election.

79. Any auditor shall be re-eligible on his quitting office.

80. If any casual vacancy occurs in the office of auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

81. If no election of auditors is made in manner aforesaid the Governor may, with the advice and consent of the Executive Council, and on the application of one fifth in number of the shareholders of the company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the company for his services.

82. Every auditor shall be supplied with a copy of the balance sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

83. Every auditor shall have a list delivered to him of all books kept by the company, and he shall at all reasonable times

have access to the books and accounts of the company. He may, at the expense of the company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the company.

84. The auditors shall make a report to the shareholders upon the balance sheet and accounts, and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs; and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices

85. Notices requiring to be served by the company upon the shareholders may be served either personally or by leaving the same, or sending them through the post in a letter addressed to the shareholders at their registered places of abode.

86. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders, and notice so given shall be sufficient notice to all the proprietors of such share.

87. All notices required by this Ordinance to be given by advertisement shall be published in the "Government Gazette."

FORM of BALANCE SHEET referred to in TABLE.

Dr. Balance Sheet of the Company, made up to 18 . *Cr.*

Capital and Liabilities.			£ s. d.	£ s. d.	Property and Assets.			£ s. d.	£ s. d.
I. *Capital.*	1	Showing: The total amount received from the shareholders; showing also: (a.) The number of shares. (b.) The amount paid per share. (c.) If any arrears of calls, the nature of the arrear and the names of the defaulters. Any arrears due from any director or officer of the company to be separately stated. (d.) The particulars of any forfeited shares.			III. *Property held by the company.*	4	Showing: Immoveable property, distinguishing: (a.) Land. (b.) Buildings. (c.) Leasehold.		
	2	Showing: The amount of loans on mortgage or debenture bonds.				5	Moveable property, distinguishing: (d.) Stock in trade. (e.) Plant. The cost to be stated with deductions for deterioration in value, as charged to the reserve fund, or profit and loss.		
II. *Debts and liabilities of the company.*	3	The amount of debts owing by the company, distinguishing: (a.) Debts for which acceptances have been given. (b.) Debts to tradesmen for supplies of stock in trade and other articles. (c.) Debts for law expenses. (d.) Debts for interest on loans. (e.) Unclaimed dividends. (f.) Debts not enumerated above.			IV. *Debts owing to the company.*	6	Showing: Debts considered good for which the company hold bills or other securities.		
						7	Debts considered good for which the company hold no security.		
						8	Debts considered doubtful and bad. Any debt due from a director or other officer of the company to be separately stated.		
					V. *Cash and investments.*		Showing: The nature of investment and rate of interest. The amount of cash, where lodged, and if bearing interest.		
VI. *Reserve Fund.*		Showing: The amount set aside from profits to meet contingencies.							
VII. *Profit and loss.*		Showing: The disposable balance for payment of dividend, &c.							
Contingent Liabilities.		Claims against the company not acknowledged as debts. Monies for which the company is contingently liable.							

D.

SUMMARY of CAPITAL and SHARES of the Company, Limited, made up to the day of

Nominal capital, £ , divided into shares of £ each.
Number of shares taken up to the day of
There has been called up on each share, £
Total amount of calls received, £
Total amount of calls unpaid, £
Total amount of shares forfeited, £

LIST of PERSONS holding Shares in the Company, Limited, on the day of , and of Persons who have held Shares therein at any time during the year immediately preceding the said day of , showing their Names and Addresses, and an Account of the Shares so held.

Folio in Register Ledger containing particulars.	Names.		Addresses and Occupations.		Account of Shares.					Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing Shareholders on the day of	Additional shares held by existing Shareholders during the preceding year.		Shares held by persons no longer Shareholders.		
						Number.	Date of Transfer.	Number.	Date of Transfer.	

E.

Form of Transfer of Shares.

I, of , (in consideration of the sum of £ paid to me by of),* do hereby transfer to the said share (*or* shares), numbered , in the Company, Limited, standing in my name in the books of the company, to hold unto the said , his heirs, executors, administrators, and assigns, subject to the several conditions on which I hold the same; and I, the said , do hereby agree to take the said share (*or* shares), subject to the same conditions. As witness our hands the day of

* The words within brackets will be omitted if no consideration is paid.

F.

Form of Mortgage.

The Company, Limited (in consideration of the sum of £ paid to such company by of), mortgages unto him, his heirs, executors, administrators, and assigns, the following

Given under the seal of the said company this day of

4th September 1861.

116.

No. 5 OF 1861.

An Ordinance relating to Wrecks, Sea Casualties, and Salvage.

Preamble.

WHEREAS it is expedient more effectually to provide for wrecks, sea casualties, and salvage, within the limits of Ceylon: It is therefore enacted as follows:

Interpretation of terms.

1. In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings herein-after assigned to them; that is to say,

"Receiver" shall mean any person appointed in pursuance of this Ordinance, receiver of wrecks:

"Master" shall include every person (except a pilot) having command or charge of any ship:

"Person" shall include body corporate.

"Ship" shall include every description of vessel used in navigation not propelled by oars:

"Wreck" shall include jetsam, flotsam, lagan, and derelict, found in or on the shores of the sea or any tidal water.

Appointment of Superintendent of Wrecks and Receivers.

2. The principal collector of customs shall throughout Ceylon have the general superintendence of all matters relating to wrecks; and it shall be lawful for the Governor to appoint any officer of customs, or any other person to be a receiver of wreck in any district, and to perform such duties as are herein-after mentioned, and due notice of every such appointment shall be published in the "Government Gazette."

Principal collector of customs to be superintendent of wrecks, and governor to appoint receivers.

3-6. Repealed. (*See* 4 of 1863.)

Duties of Receivers.

7. Whenever any ship or boat is stranded or in distress at any place on the shore of the sea, or of any tidal water within the limits of Ceylon, the receiver of the district within which such place is situate shall, upon being made acquainted with such accident, forthwith proceed to such place and take the command of all persons present, and assign such duties to each person and issue such directions as he may think fit, with a view to the preservation of such ship or boat, and the lives of the persons belonging thereto, and the cargo and apparel thereof; and if any person wilfully disobeys such directions he shall forfeit a sum not exceeding fifty pounds; but it shall not be lawful for such receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

Duty of receiver when any ship is stranded or in distress.

8. The receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and apparel, do the following things; (that is to say,)

(1.) Summon such number of men as he thinks necessary to assist him:

(2.) Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship, or boats as may be in his power:

(3.) Demand the use of any waggon, cart, horses, or bullocks that may be near at hand.

And any person refusing without reasonable cause to comply with any summons, requisition, or demand so made as aforesaid, shall for every such refusal incur a penalty not exceeding 100*l.*

Powers of receiver in case of such accident to any ship or boat.

9. All cargo and other articles belonging to such ship or boat as aforesaid that may be washed on shore, or otherwise be lost or taken from such ship or boat, shall be delivered to the receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or to any person authorized by him to demand the same, shall incur a penalty not exceeding 100*l.*; and it shall be lawful for such receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

All articles washed on shore, or lost or taken from any ship or boat, to be delivered to the receiver.

10. Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs

Power of receiver to sup-

press plunder and disorder by force.

the preservation of such ship, boat, lives, or cargo, as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction as aforesaid, with power to command all Her Majesty's subjects to assist him in the use of such force ; and if any person is killed, maimed, or hurt, by reason of his resisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be freely and fully indemnified as well against the Queen's Majesty, her heirs and successors, as against all persons so maimed or hurt, and against the heirs, executors, administrators, or other representatives of the persons so killed.

Certain officers to exercise powers of receiver in his absence.

11. During the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Ordinance the following officers in succession, each in the absence of the other, in the order in which they are named ; (that is to say,) the principal officer of customs in the district, or master attendant, or Government Agent, or Assistant Government Agent, or superintendent or assistant superintendent of police, and also any justice of the peace, commissioned officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, may do all matters and things hereby authorized to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat the delivery up of which to the receiver is hereinbefore required, any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver ; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Power in case of a ship being in distress to pass over adjoining lands with carriages.

12. Whenever any such accident as aforesaid occurs to any ship or boat, all persons may, for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo or apparel thereof, unless there is some public road equally convenient, pass and repass, either with or without carriages, horses, or cattle, over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit as aforesaid shall be a charge on the ship, boat, cargo, or articles in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable as salvage is hereby made recoverable, and the amount payable in respect thereof, if disputed, shall be determined as disputed salvage is hereby directed to be determined.

Penalty on owners and

13. If the owner or occupier of any land over or on which any person is hereby authorized to pass, repass, or deposit as

aforesaid for any of the purposes herein-before mentioned, does any of the following things; (that is to say,)

occupiers of land refusing to allow carriages, &c. to pass over their land.

(1.) Impedes or hinders any such person from so passing or re-passing, with or without carriages, horses, cattle, and servants, by locking his gates, or placing any barrier, refusing, upon request, to open such gates or remove such barrier, or otherwise however:

(2.) Impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat as herein-before mentioned:

(3.) Prevents such cargo or other articles from remaining so deposited for a reasonable time, until the same can be removed to a safe place of deposit:

he shall for every such offence incur a penalty not exceeding 20*l.*

Power of receiver to institute examination with respect to ships in distress.

14. Any receiver, or in his absence any justice of the peace, shall, as soon as conveniently may be, examine upon oath (which oath they are hereby respectively empowered to administer) any person belonging to any ship which may be or may have been in distress on the coast of Ceylon, or any other person who may be able to give any account thereof, or of the cargo or stores thereof, as to the following matters; (that is to say,)

(1.) The name and description of the ship:

(2.) The name of the master and of the owners:

(3.) The names of the owners of the cargo:

(4.) The ports or places from and to which the ship was bound:

(5.) The occasion of the distress of the ship:

(6.) The services rendered:

(7.) Such other matters or circumstances relating to such ship or to the cargo on board the same as the receiver or justice thinks necessary.

And such receiver or justice shall take the examinations down in writing, and shall make a copy of the same, which he shall send to the principal collector of customs, who shall place the same in some conspicuous situation for the inspection of persons desirous of examining the same, and shall otherwise give such publicity thereto as he shall consider necessary.

Original or certified copy of examination to be *primâ facie* evidence.

15. Any such examination or a copy thereof certified under the hand of such receiver or justice shall be admitted in evidence in any court of justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, as *primâ facie* proof of all matters contained in such examination.

Rules to be observed by persons finding wreck.

16. The following rules shall be observed by any person finding or taking possession of wreck within Ceylon; (that is to say,)

(1.) If the person finding or taking possession of wreck is the owner, he shall as soon as possible give notice to the receiver of the district within which such wreck is found, stating that he has found or taken possession of the same, and he shall describe in such notice the marks by which such wreck is distinguished.

(2.) If any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver.

And if the owner makes default in performing the several things the performance of which is hereby imposed on the owner, he shall incur a penalty not exceeding 50*l.*

Any person who makes default in performing the several things the performance of which is hereby imposed on any person not being an owner shall forfeit all claim to salvage, and shall pay to the owner of such wreck, if the same is claimed, but if the same is unclaimed, then to the person entitled to such unclaimed wreck, double the value of such wreck (such value to be recovered in the same way as a penalty of like amount), and he shall incur a penalty not exceeding 50*l.*

Power for receivers to seize concealed wreck.

17. Any receiver suspecting or receiving information that wreck is secreted, or in the possession of some person who is not the owner thereof, or otherwise improperly dealt with, may apply to any justice of the peace for a warrant; and such justice may grant a warrant for the receiver to enter into any house or place, and also into any ship or boat, and to search for, seize, and detain any such wreck there found; and if any such seizure is made in consequence of information that may have been given by any person to the receiver, the informer shall be entitled, by way of salvage, to such a sum, not exceeding in any case five pounds, as the receiver may allow.

Notice of wreck to be given by receiver.

18. Every receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the custom house of the port nearest to the place where such wreck was found a description of the same, and of any marks by which it is distinguished, and shall give such publicity thereto otherwise as the principal collector of customs shall direct.

Goods deemed perishable or of small value may be sold immediately.

19. In cases where any wreck in the custody of any receiver is under the value of 5*l.*, or is of so perishable a nature or so damaged that the same cannot, in his opinion, be advantageously kept, or if its value is not sufficient to defray the charge of warehousing, the receiver may sell the same before the expiration of the period herein-after mentioned, and the money raised by such sale, less the expenses thereof, shall be held by the receiver for the same purposes, and subject to the same claims, for and to which the article sold would have been held liable if it had remained unsold.

Remuneration to receivers.

20. There shall be paid to all receivers appointed under this Ordinance the expenses properly incurred by them in the performance of their duties, and also such fees as may from time to time be directed by the Governor, with the advice and consent of the Executive Council, and the receiver shall have the same lien and be entitled to the same remedies as for the recovery of such expenses and fees as a salvor has or is entitled to in respect of salvage due to him; but save as aforesaid no receiver appointed under this Ordinance shall, as such, be entitled to any remuneration whatsoever.

Salvage in Ceylon.

21. Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea of or tidal water in Ceylon, and services are rendered by any person:

Salvage in respect of services rendered in Ceylon.

(1.) In assisting such ship or boat:

(2.) In saving the lives of the persons belonging to such ship or boat:

(3.) In saving the cargo or apparel of such ship or boat, or any portion thereof;

And whenever any wreck is saved by any person other than a receiver:

The owners of such ship or boat, cargo, apparel, or wreck, shall pay to the person by whom such services are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses incurred by him in the performance of such services, or the saving of such wreck, the amount of such salvage and expenses (which expenses are herein-after included under the term salvage) to be determined in case of dispute in manner herein-after mentioned.

22. Salvage in respect of the preservation of the life or lives of any person shall be payable in priority to all other claims for salvage, and in cases where a ship or boat is destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred for the amount of salvage due in respect of any life or lives, the Governor, with the advice and consent of the Executive Council, may award to the salvors of such life or lives, out of the public revenue, such sum or sums as he may deem fit.

Salvage for life.

23. Disputes between the owners of any such ship, boat, cargo, or apparel as aforesaid and the salvors as to the amount of salvage, and amongst several salvors as to the apportionment thereof, shall, if the parties cannot agree to settle the same by arbitration or otherwise, be determined by the competent court having jurisdiction in that behalf.

Disputes as to salvage, how to be settled.

24. Whenever the salvage in respect of services rendered has been ascertained, and any of the salvors are absent, the party liable to pay the salvage may apply to the receiver of the district for liberty to pay the salvage to him; and he shall, if he thinks fit, receive the same and grant a certificate under his hand, stating such payment and the services for which it is made; and such certificate shall be a full discharge to the person to whom it is given, against the claims of all persons in respect of the services therein mentioned.

Payment of salvage, to whom to be made in case of dispute as to apportionment.

25. Upon the receipt of any such amount the receiver shall proceed to distribute the same among the several persons entitled thereto, and pay the share of each on application being made to him for that purpose.

Apportionment of salvage by receiver and payment over.

26. Whenever any salvage is due to any person under this Ordinance the receiver shall act as follows; (that is to say,)

Manner of enforcing payment of salvage.

(1.) If the salvage is due in respect of services rendered in assisting any ship or boat, or in saving the lives of

persons belonging to the same, or the cargo or apparel thereof, he shall detain such ship or boat, and the cargo and apparel belonging thereto, until payment is made, or process has been issued by some competent court for the detention of such ship, boat, cargo, or apparel:

(2.) If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions herein-after mentioned, he shall detain such wreck until payment is made, or process has been issued in manner aforesaid; but it shall be lawful for the receiver, if at any time previous to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, apparel, or wreck so detained by him as aforesaid, and in all cases where bond or other security is given to the receiver, it shall be lawful for the salvor, or for the owner of the property salved, or their respective agents, to institute proceedings in a competent court for the purpose of having the questions arising between them adjudicated upon, and the said court may enforce payment of the said bond or other security in the same manner as if bail had been given in the said court.

Power of receiver to sell property salved in cases of non-payment.

27. Whenever any ship, boat, cargo, apparel, or wreck is detained by any receiver for nonpayment of any sums so due as aforesaid, and the parties liable to pay the same are aware of such detention, then in the following cases; (that is to say,)

(1.) In cases where the amount is not disputed, and payment thereof is not made within twenty days after the same has become due:

(2.) In cases where the amount is disputed, and no appeal is taken from the first tribunal by which the dispute is decided, and payment thereof is not made within twenty days after the decision of tribunal:

(3.) In cases where the amount is disputed, and an appeal is taken from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days as last aforesaid, or such proceedings as are according to the practice of such other tribunal necesary for the prosecution of an appeal, are not instituted within such twenty days:

The receiver may forthwith sell such ship, boat, cargo, apparel, or wreck, or a sufficient part thereof, and out of the proceeds of the sale, after payment of all the expenses thereof, defray all sums of money due in respect of expenses, fees, and salvage, paying the surplus, if any, to the owners of the property sold, or other the parties entitled to receive the same.

Subject to the payment of such expenses, fees, and salvage as aforesaid, the owner of any wreck who establishes his claim thereto to the satisfaction of the receiver, within one year from the date at which such wreck has come into the possession of the receiver, shall be entitled to have the same delivered up to him.

Subject to payment of expenses, fees, and salvage, owner entitled to wreck.

28. Repealed. (*See* 4 of 1862).

Offences in respect of Wreck.

29. Every person who does any of the following acts; (that is to say,)

Penalty for plundering in cases of shipwreck, for obstructing the saving of shipwrecked property, and for secreting the same.

(1.) Wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded, or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof, or any wreck; or,

(2.) Endeavours in any way to impede or hinder the saving of such ship, boat, cargo, apparel, or wreck; or,

(3.) Secretes any wreck, or obliterates or defaces any marks thereon,

Shall, in addition to any other penalty or punishment he may be subject to under this or any other Ordinance or law, for each such offence incur a penalty not exceeding fifty pounds; and every person, not being a receiver, or a person herein-before authorized to take the command in cases of ships being stranded or in distress, or not acting under the orders of such receiver or person, who without the leave of the master endeavours to board any such ship or boat as aforesaid, shall for each offence incur a penalty not exceeding fifty pounds; and it shall be lawful for the master of such ship or boat to repel by force any such person so attempting to board the same.

30. If any person takes into any foreign port or place any ship or boat stranded, derelict, or otherwise in distress, on or near the seashore, or the shore of any tidal water of Ceylon, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found within such limits as aforesaid, and there sells the same, he shall be guilty of an offence and be subject to transportation for a term not exceeding seven years.

Penalty for selling wreck in foreign parts.

Miscellaneous.

31. All wreck shall be subject to the same duties as if the same were imported into Ceylon.

All goods found derelict to be subject to the same duties as on importation.

32. The principal collector of customs shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked to be forwarded to the port of its destination or shipment, but he is to take security for the due protection of the revenue, in respect of such goods, wares, and merchandise.

Goods saved from ships wrecked, to be forwarded to the ports of their original destination.

33. Whenever any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of Ceylon, or belonging to or forming part of the cargo thereof, are found on or near such coasts, or are brought into any port in

In case of wreck of foreign ships, consul general

or other consular officer to be deemed agent of owner.

Ceylon, the consul general of the country to which such ship, or, in the case of cargo, to which the owners of such cargo may have belonged, or any consular officer of such country authorized in that behalf, shall, in the absence of the owner of such ship or articles, and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of such articles.

34. Has had its effect.

2nd October 1861.

117.

No. 6 of 1861.

An Ordinance to repeal the Ordinance No. 3 of 1857, and to declare the consent of the Legislature of this Colony for placing Light Vessels at the Basses Rocks, and to the collection of Dues in respect thereof.

Preamble.

Whereas by "the Merchant Shipping Act Amendment Act, 1855," it is enacted, that in any case in which any lighthouse, buoy, or beacon has been or is hereafter erected on or near the coasts of any British possession, by or with the consent of the legislative authority of such possession, Her Majesty may, by Order in Council, fix such dues in respect thereof, to be paid by the owner or master of every ship which passes the same or derives benefit therefrom, as Her Majesty may deem reasonable, and may in like manner from time to time increase, diminish, or repeal such dues ; and that from the time specified in such order for the commencement of the dues thereby fixed, increased, or diminished, the same shall be leviable throughout Her Majesty's dominions in manner in the said Act mentioned ; and that no such dues shall be levied in any colony unless and until the legislative authority in such colony has, either by address to the Crown, or by an Act or Ordinance duly passed, signified its opinion that the same ought to be levied in such colony:

And whereas it was originally intended to erect a lighthouse on the Great Basses Rocks, near the south-east coast of this Island, and the legislature of this Colony, by the Ordinance No. 3 of 1857, entitled an Ordinance "to declare the consent of the Legislature of this Colony to the erection of a lighthouse on the Great Basses Rocks, and in the collection of dues in respect thereof," declared its consent thereto, and signified its opinion that dues in respect thereof might be levied ; but it has been found necessary to abandon that work, in consequence of the difficulty and expense of constructing the same:

And whereas it is now intended to place a light vessel at the Little Basses Rock, to serve as a beacon, and to be followed thereafter, if practicable, by another light vessel at the Great Basses

Rock, to serve also as aforesaid; and it is expedient that the Ordinance No. 3 of 1857 should be repealed, and that the Legislature should declare its consent to the placing of such light vessels, and its opinion that such dues as Her Majesty may, by Order in Council, fix in respect thereof, pursuant to the said Act, ought to be levied in this Colony: It is therefore enacted as follows:

1. The said Ordinance No. 3 of 1857 is repealed. Repeal of Ordinance No. 3 of 1857.

2. Light vessels, to serve as beacons, may be placed at the said Great and Little Basses Rocks, or at either. Consent of Ceylon Legislature to placing of beacons at the Basses Rocks.

3. Any dues which may hereafter be fixed by Her Majesty by Order in Council, in respect of the said light vessels, or either, ought to be and may be levied in this Colony in manner provided by the said Act on all ships arriving or touching at any port or place therein, after or before passing the said light vessels, or either, or deriving benefit therefrom. Dues fixed by Her Majesty in council in respect thereof leviable in this Colony.

2nd October 1861.

118.

No. 10 OF 1861.

To consolidate and amend the Laws relating to Public Thoroughfares in this Colony.

WHEREAS it is expedient to consolidate and amend the laws relating to public thoroughfares in this Colony, and to make other provisions respecting the same: It is enacted as follows: Preamble.

Preliminary.

1. Repealing clause.

2. This Ordinance may be cited for all purposes as "The Road Ordinance, 1861." Short title of Ordinance.

3. Has had its effect.

4. In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings herein-after assigned to them; that is to say, Interpretation of certain terms in this Ordinance.

"Thoroughfare" shall mean any public road, canal, or river.

"Road" shall include all public carriageways, cartways, and pathways, as well as all bridges, drains, embankments, causeways, and ditches belonging or appertaining to a road, and such waste land adjoining any road as may have been reserved for its protection or benefit, throughout the Island; also all public places in any town.

"Canal" shall mean any public canal, and shall include the full extent of waterway from bank to bank, together with the sides, towing-paths, embankments, drains, and ditches thereto belonging.

Preliminary.

"River" shall include all public navigable streams, lakes, estuaries, creeks, and inlets of the sea, and all towing-paths and embankments thereto belonging.

"Centre of the road" shall be deemed to be the centre of the part thereof commonly used as a thoroughfare.

"Town" shall mean any place within the limits of which a police force is or shall hereafter be established by the Governor, and any place included in any proclamation issued or to be issued by the Governor under the provisions of the Ordinance No. 10 of 1848.

"Householder" shall mean the owner, or part owner, or lessee, or principal occupant of the house in which such person resides.

"Inhabitant" shall mean a person who, being in this Colony, has resided therein for three months or upwards.

"Rest-house" shall include any amblam, maddum, or other public building for the shelter of travellers.

"Ox" shall include buffalo and all cattle.

"Horse" shall include all animals except oxen, commonly used in drawing any kind of carriage.

Language of notices, and how served.

5. All notices required to be given by this Ordinance shall be in the English, Singhalese, or Tamil language, in the discretion of the provincial committee; and every notice addressed to any person may be served either personally upon such party, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Forms in schedule may be used.

6. The several forms in the schedule to this Ordinance, or forms to the like effect, shall be deemed good and sufficient.

Powers of Commissioner of Roads to be exercised by his assistants.

7. The powers and duties vested by this Ordinance in and imposed upon the Commissioner of Roads shall and may be exercised and discharged by any assistant commissioner of roads within the limits of his authority, under the control and direction of the Commissioner of Roads.

General Provisions.

General Provisions.

Governor to declare principal thoroughfares.

Proviso.

8. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to declare that any road, canal, or river shall be deemed to be a principal thoroughfare for the purposes of this Ordinance, and such road, canal, or river shall from the time specified in such proclamation be deemed to be a principal thoroughfare accordingly: Provided that all roads, rivers, lakes, and canals, which have been declared principal roads, rivers, lakes, or canals under the Ordinance No. 8 of 1848, shall be deemed principal thoroughfares for the purposes of this Ordinance.

Governor may order road to be stopped up or diverted, and substitute shorter or more commodious course,

9. It shall be lawful for the Governor, with the advice of the Executive Council, and on the application of the provincial committee, to order that any existing road be stopped up, diverted, or turned, and to substitute some shorter or more commodious course for any road so diverted or turned, as the public advantage may require; and it shall also be lawful for the said Governor and Council to order any new road to be opened, or any road to be

General Provisions.

widened and enlarged, in such manner as they shall think fit; and if in the execution of any such order it shall become necessary to take possession for the public use of the land of any person, it shall be lawful for the chairman of the provincial committee, and he is hereby empowered, subject to the approval of the Governor, to make an agreement on behalf of the Government with the owner for the recompense to be made for such land, and for any building, tree, or fence thereon, either by allowing him to possess the ground, or part of the ground, of the former road, or by the grant of other Crown land in exchange, or by payment in money; and the land of any person taken possession of by the chairman of the said committee in pursuance of such agreement shall vest in the Government, without any formal transfer thereof, and the certificate of such chairman that any person has been allowed by the Governor to possess any part of the ground of the former road or other Crown land, together with a survey thereof, shall be a sufficient title of the right of such person to the same; and if the said chairman cannot agree with such owner as to the recompense to be made, or if the owner cannot be found, or if it be not thought advisable to enter into any such agreement, then proceedings may be taken for obtaining possession of such land, and for compensating the owner, in the manner prescribed by any Ordinance in force at the time providing means for taking private lands for public uses.

and order road to be widened and enlarged.

Mode of ascertaining compensation to be given to owner of land taken for any such purpose.

10. The several districts and divisions into which the Colony has been divided under the authority of the Ordinance No. 8 of 1848 shall continue to be the districts and divisions for the purposes of this Ordinance, so long as any such district or division shall not have been altered in manner herein-after provided.

The existing districts and divisions to continue until altered.

11. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to alter and vary any district or division into which this Colony has already been divided under the authority of the Ordinance No. 8 of 1848, or into which it may at any time hereafter be divided for the purposes of this Ordinance: Provided that any such alteration of a district shall take effect only from the first day of January thence next ensuing.

Governor may alter the districts and divisions.

Proviso.

12. It shall be lawful for any provincial or district committee for the time being to make and enter into, perform and execute, and compel the performance and execution of all such contracts and agreements, matters, and things, and to commence and maintain all such suits as they shall deem necessary; and all such contracts and agreements shall and may be entered into and enforced, and all such suits be brought by them in the name of the provincial or district committee of the province or district respectively for which any such committee is assigned to act, without specifying the names of the members of any such committee or the name of any member thereof, and no action shall abate by reason of the death, resignation, retirement, or removal of any member of any such committee; and all suits the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing, made or entered into, done, or performed by any provincial or district

Committees may enter into contracts, and may sue and be sued.

General Provisions.

committee in the execution of the powers vested in them by this Ordinance, shall be brought by such person against such provincial or district committee under the name and title aforesaid; and the service of all processes in any such suit against any such committee shall be made upon the chairman thereof.

Provincial Committees.

Provincial Committees.

Appointment of provincial committee.

13. For the purposes of this Ordinance there shall be in each province a committee to be termed the provincial committee, to be constituted and appointed in manner following:—The Government Agent of the province and the Commissioner of Roads, or in his absence any assistant authorized by him, shall be the official members thereof; and it shall be lawful for the Governor to appoint not less than three nor more than five persons, of whom at least three shall be persons not holding office under the Government, to be the other members thereof; and the persons so appointed shall continue in office one year and no longer, unless again appointed in like manner; and the Government Agent shall be the chairman of such committee; and the assistant to the Government Agent at the principal station in the province, or the person acting in that capacity, shall be the secretary to the said committee, and such secretary shall be present at and make due record of all meetings of the committee, and of the resolutions and proceedings thereof.

Chairman thereof. Secretary.

Majority to decide.

14. All acts whatsoever authorized or required by virtue of this Ordinance to be done by any provincial committee, may and shall be done and decided by the majority of the members of the said committee present at any meeting thereof duly convened in manner herein-after provided, such members not being less than three of the whole number of the provincial committee, unless where by any of the provisions of this Ordinance one member of the said committee is expressly empowered to do and decide any act, matter, or thing whatsoever: Provided that when the votes of the members present in regard to any question shall be equally divided, the chairman, or in his absence the Commissioner of Roads or his assistant, or in the absence of both the official members, the member chosen by the meeting to preside, shall, besides his vote as a member, have a casting vote; and provided further, that if the Government Agent shall be absent from any meeting, the secretary shall be entitled to vote upon any question.

Quorum.

Casting vote of chairman.

Meetings of provincial committees.

15. Meetings of the provincial committee shall be held for the dispatch of business at the office of the Government Agent for the province, upon such day or days in every month as shall be fixed by any general rule made by such committee as herein-after provided: Provided that if any two members shall call upon the chairman, by writing under their hands, to convene a special meeting of such committee, it shall be the duty of the chairman to convene such meeting within seven days from the receipt of such requisition, and two days' notice of the day appointed by him for the same shall be given by the secretary to each member thereof.

Proviso.

Provincial Committees.

Provincial committee to make rules.

16. It shall be lawful for the provincial committee to make such rules and to prescribe such forms of accounts as to them may appear expedient for regulating the due conduct and management of the duties imposed on them and on those acting under their authority, and on the district committees and division officers in their province; provided such rules be not repugnant to or inconsistent with any of the provisions of this Ordinance, and that copies thereof be with all convenient speed transmitted to the Governor for the approval, amendment, or disallowance thereof by the Governor, with the advice of the Executive Council; and the said rules so approved or amended shall thereupon become as legal, valid, and effectual as if the same had been inserted herein; and it shall also be lawful for the provincial committee from time to time to give general directions for the management of their business to the district committees and to the division officers within their province; provided such directions be not repugnant to or inconsistent with the provisions of this Ordinance, or with any rules made under the authority of this section.

Provincial committee to furnish list of inhabitants annually to Government.

17. Every provincial committee shall, on or before the first day of July in every year, transmit to the Governor a numerical abstract of the inhabitants resident within the province liable to the performance of labour under this Ordinance, distinguishing the number of such inhabitants belonging to each district and division within the province.

Committee to submit estimates of principal thoroughfares.

18. It shall be the duty of every provincial committee, on or before the first day of August in every year, to transmit to the Governor estimates to be prepared by the Commissioner of Roads, under the direction of the provincial committee, of the amount which the committee recommend should be expended during the ensuing year upon any principal road, river, lake, or canal, or upon any rest-house, or any proposed principal road or canal, or any proposed rest-house, within the province; and it shall be lawful for the Governor to make any alteration in any such estimates which may to him appear necessary, and to propose such estimates or amended estimates, or such of them as to the Governor may appear expedient, to the Legislative Council, in the Ordinance for making provision for the contingent expenditure of the Colony for the ensuing year: Provided that the amount of labour to be supplied for the performance of any works for which estimates may have been so proposed by the Governor and approved of by the Legislative Council shall be distinctly stated in the Ordinance enacted for the same, and that the same shall not exceed two thirds of the whole amount of labour due from the district or districts within which it may be required to be performed, less two thirds of the necessary expenditure to be incurred in carrying out the provisions of this Ordinance.

To be included in the Supply Ordinance.

Provincial committee to have charge of rest-houses.

19. The charge of all public rest-houses and of any premises belonging thereto shall be vested in the provincial committee of the province within which the same shall be situated; and it shall be lawful for the said committee, with the approval of the Governor, to make such rules as to them may appear expedient in respect to the letting or occupation of the same, and all such rules

Provincial Committees.

shall be binding in law upon all parties in any manner using or occupying any such rest-house, or any of the premises belonging thereto; and all sums which shall by virtue of any such rules or otherwise be received from any person hiring, using, or occupying any such rest-house or premises shall be paid to the chairman of the said provincial committee, who shall defray therefrom the expenses necessary for the management of the several rest-houses and premises within the province.

Provincial committee to furnish accounts to Governor.

20. Every provincial committee shall, on or before the first day of April in every year, transmit to the Governor accounts, audited by two of its members, showing the amount of labour and money performed and paid on account of each district and division in the province during the preceding year, and of the several works for which the same shall have been applied; and there shall be appended to such accounts copies of the certificates referred to in the 37th section; and such accounts, with the copies aforesaid, shall be laid before the Legislative Council at its next session.

Persons appointed bound to serve.

21. Every person appointed a member of a provincial committee shall be bound to act as such for the space of one year from the time of such appointment; and any person so appointed who shall refuse to act as such for the time aforesaid, or who shall neglect to attend any meeting of the said committee without lawful excuse, or who shall on any occasion during such time wilfully neglect or refuse to perform any of the duties imposed upon him by this Ordinance, shall forfeit for such first-mentioned act of refusal the sum of ten pounds, and for any other act of neglect or refusal the sum of two pounds: Provided that it shall be lawful for the Governor, upon good and sufficient reasons shewn to him, to permit any person appointed a member of a provincial committee to resign such office before the expiration of one year from the time of such appointment; and provided further, that no person shall, unless with his own consent, be appointed a member of any such committee within five years from the time of his having ceased to act in such office; but nothing in this Ordinance contained shall prevent any person appointed a member of any such committee continuing with his own consent, and upon a fresh appointment, to act as such for a longer period than one year.

Proviso.

Vacancy in provincial committee.

22. In case of the death, incapacity, resignation, or departure from the Island of any member of a provincial committee the chairman shall report the same forthwith to the Governor, and it shall be lawful for the Governor to appoint some qualified person to supply the vacancy so created for the remainder of the period for which any such member was bound to act; and any person appointed to supply any such vacancy shall be and become vested with all the powers and rights, and liable to the performance of all the duties, and subject to the penalties, conferred or imposed by this Ordinance on members of the provincial committee; and until any such vacancy shall be supplied, the remaining members or member of any such committee shall continue to do and perform all and every the acts, matters, and things necessary for carrying

into effect the purposes of this Ordinance, anything contained in section 14, relative to the number of members required to form a quorum at any meeting of a provincial committee, to the contrary notwithstanding.

Provincial Committees.

District Committees.

District Committees.

23. For the purposes of this Ordinance, there shall be in each district into which any province has been or shall hereafter be divided a committee, to be termed the district committee, and consisting of the following members; that is to say, the Government Agent of the province, or in his absence the Assistant Government Agent of the district, or if there be none such, then such other person as the provincial committee shall appoint; the Assistant Commissioner of Roads of the district, or such other officer as the Commissioner of Roads shall appoint; and three other members to be elected or appointed in the manner hereinafter mentioned: Provided that it shall be lawful for any member of a provincial committee to be also a member of any district committee; and the said Government Agent, or in his absence the said Assistant Agent, or such other person as may be appointed by the provincial committee as aforesaid, shall be the chairman of such district committee; and the said Assistant Agent, or in his absence, or if there be no such Assistant Agent, then any member nominated by the chairman, shall be the secretary thereof, and shall make due record of all meetings of the said committee and of the resolutions and proceedings thereof: Provided that in the event of the absence of such secretary from any meeting, the duties of secretary may and shall be performed by any one of the members present who shall be thereunto directed by the member chosen to preside at such meeting.

Constitution of district committee.

Chairman and secretary.

24. All acts whatsoever authorized or required by virtue of this Ordinance to be done by any district committee may and shall be done and decided by the majority of the members of the said committee present at any meeting thereof, such members not being less than three of the whole number of the district committee, unless where by any of the provisions of this Ordinance one member of the said committee is expressly empowered to do and decide any act, matter, or thing whatsoever: Provided that when the votes of the members present shall be equally divided the chairman shall, besides his vote as a member, have a casting vote.

Majority to decide.

Quorum.

Casting vote of chairman.

25. No person shall be eligible as a member of a district committee unless he shall be an inhabitant of the district for which the said committee is assigned to act, and shall be of the age of twenty-one years or upwards: Provided that it shall be lawful for the Governor from time to time to require by proclamation to be published in the "Government Gazette" that any members to be elected for any district therein named should be able to read and write the English language, and no person shall after such proclamation be admitted as a candidate for election who does not possess such qualification.

Qualification of member.

District Committees.

Candidates must give notice of intention to offer themselves as such.

26. Every person intending to offer himself as a candidate shall give at least ten days' notice in writing to the chairman of the provincial committee of such his intention, and it shall be the duty of the said chairman to publish the names of the candidates at the different places in which the election is held, as is hereinafter provided, before the election takes place.

Elections, when to be held.

27. The provincial committee of every province shall, once in three years, cause a general election to be held in each district within the province, for the election of the three members for each of the district committees within such province; that is to say, the first of such elections shall be held on an early day in the month of January one thousand eight hundred and sixty two, and thereafter on such other day before the first day of January of every succeeding third year as the said provincial committee shall appoint. The committee may, if need be, appoint several places for holding the election, so as to secure that the elections should all be held in one and the same day: Provided that such committee shall in every case cause notices to be published seven days at least before the day of such election, fixing the time and places of such election. A copy of such notice shall also be inserted in the "Government Gazette," and affixed on the walls of the cutcherry and courts of every such district respectively.

Election, by whom to be held.

Classification of electors.

28. Every election shall be held at the time and places fixed by the provincial committee as aforesaid, and in the presence of the chairman thereof or of such other person as the committee shall depute for that purpose; that is to say, there shall be a separate election in respect of each class of the community, namely, the Europeans, the burghers, and the natives: Provided that for the purpose of such election every person shall be deemed a burgher who shall be commonly known as such, and every person shall be deemed a native who shall not be either a European or a burgher.

Order of holding elections.

29. At the time and places so fixed as aforesaid the person holding the election shall at once proceed to the election of the member for the European community, and thereafter of the member for the burgher community, and lastly of the member for the native community.

Mode of holding elections.

30. At every such election it shall be lawful for every male inhabitant between the ages of 18 and 55 years residing within the district and being a member of that class of the community for which the member is to be elected and liable to perform labour under the Ordinance, to nominate for election as a member of the district committee of the said district any person who shall have offered himself as a candidate for the said office; and every such inhabitant shall be entitled to attend personally at the time and place aforesaid, before the person holding the election, and declare to him the name of the candidate for whom he votes: Provided that no person otherwise qualified shall be entitled to vote unless he shall produce a certificate of the due performance by him of labour for the current year, or a receipt of the payment of commutation money in lieu of such labour. If the election should precede the calling out of labour in the district to which the voter

District Committees.

belongs, it shall then be competent for him to produce the certificate of labour or the commutation receipt for the preceding year: Provided further, that it shall not be competent for any inhabitant to nominate or vote for any candidate who may have already been elected by either of the other two classes for the same period.

Votes to be recorded, and the result to be declared.

31. The persons holding the election shall record or cause to be recorded in a book to be kept for that purpose the proceedings had at such elections, and the number of votes for the several candidates, and at the close of each election shall publicly declare the names of the candidates for whom the greatest number of votes shall have been recorded, and shall communicate the same forthwith to the chairman of the provincial committee; and such chairman, after having ascertained the result of the elections at all the places appointed for holding the same, shall publish the names of the candidates elected by each class for whom the greatest number of votes shall have been recorded in the aggregate, and who shall thereupon be deemed to have been duly elected: Provided that no person shall be deemed duly elected who shall have less than five votes in his favour: Provided also, that if the votes in favour of two or more of the candidates shall be equal, the provincial committee may at their discretion select any one of them and declare him to be and he shall thereupon be deemed to be the duly elected member.

Proviso.

Objections to voters how disposed of.

32. If any question shall be raised as to the right of any person to vote at any election, the person holding the election shall then and there make such inquiry as he may deem requisite, and shall declare whether the objection made be good or not, and the decision so made shall, for the purposes of the said election, be final. In all other questions relating to elections, or the legality thereof, the decision of the provincial committee shall be final.

Provision in case no candidate appears or is elected.

33. If upon the day fixed for holding any election no person shall offer himself for election, or no person shall be duly elected, it shall be lawful for the provincial committee either again to appoint a time and places for holding such election, giving such notice as they may deem sufficient, or, if they shall think fit so to do, to appoint some person to be nominated by themselves as the member to represent that class of the community in respect of which no person shall have offered himself or been duly elected.

Member bound to serve.

34. Every person so elected or appointed as a member of a district committee shall be bound to act in such office for the period of at least one year.

Vacancy how supplied.

35. In case of the death, incapacity, resignation, or departure from the Island of any member so elected or appointed as aforesaid, the provincial committee shall cause a fresh election to be held, after such notices and in like manner as is herein-before provided in respect of general elections, and subject also to the provision in the 33rd section contained; and every person so elected or appointed in place of another shall, except as is herein-before provided, be bound to act in the said office for the remainder of the period for which the original member was elected or appointed.

District Committees.

Penalty for refusal to act as member.

36. Any person appointed as a member of a district committee who shall refuse to act as such shall be liable to a fine not exceeding ten pounds; and any member, whether elected or appointed, who shall, during the time that he is a member, wilfully neglect or refuse to perform any of the duties imposed upon him by this Ordinance, shall forfeit for any such act of neglect or refusal the sum of two pounds: Provided that it shall be lawful for the provincial committee, upon good and sufficient reasons being shewn in that behalf, to permit any such member to resign his office before the expiration of the period for which he shall be bound to act therein.

Appropriation of one third to minor works.

37. It shall be lawful for the district committee, with the approval of the provincial committee, to apply the remaining amount of labour not appropriated for works referred to in section 18, or any money paid in commutation thereof, less the proportion of the necessary expenditure to be incurred in carrying out the provisions of this Ordinance for the repair, improvement, maintenance, and formation of any minor road or path, river, lake, or canal, or any proposed minor road, path, or canal within the district: Provided that it shall be the duty of every district committee, before commencing their works in any year, to transmit to the provincial committee estimates of the amount which the district committee recommend should be expended during that year upon any minor road or path, river, lake, or canal, or any proposed minor road or canal within the district, copies of which estimates shall be forwarded by the provincial committee to the Governor; and provided further, that no work performed by the district committee shall be admitted into account and pass audit unless the due and satisfactory performance thereof be certified to in writing by two members of the provincial or district committee, and an entry thereof be made in the proceedings.

Proviso.

Further proviso.

Division Officers.

Division officers how appointed.

Division Officers.

38. The district committee of each district shall be empowered from time to time to appoint as many division officers for such district as shall be necessary, and to award to them such salary or remuneration as they deem fit, and also from time to time to remove any existing or future division officer from his office, and appoint another to succeed him: Provided that the several division officers elected or appointed under the authority of the Ordinance No. 8 of 1848, shall, unless removed by the said committee, continue to be the division officers for the respective divisions for which they were originally elected or appointed, receiving therefor such salary or remuneration as may have been agreed upon; and they shall perform the duties and exercise the powers, and be liable to the penalties, conferred or imposed by this Ordinance on division officers; and any bond or other security given by them for the due and faithful execution of their office shall remain in force and be good and effectual as security for the due and faithful execution of their duties as division officers under this Ordinance.

Security given by them to stand good.

Division Officers.

Appointment of successors to present division officers.

39. If any division officer shall die or become incapable or disqualified, or resign or be removed from his office, the district committee shall with the least possible delay appoint such person to the vacancy as they may deem fit.

Qualification of division officer.

40. No person shall be eligible to be appointed a division officer unless he shall be an inhabitant of the division for which he shall be appointed, or shall reside within such distance from it as the district committee shall determine.

Division officer to give security.

41. Every person appointed a division officer shall, within ten days from the time of such appointment, give security to Her Majesty, her heirs and successors, for the due and faithful execution of his office, in such amount as shall be determined by the district committee; and such security shall be given by way of mortgage of immoveable preperty within this Island, or by deposit of money, in such manner as the said district committee shall appoint. and such mortgage bond shall be free of stamp duty.

Householders to fill up lists of males resident in their houses, on requisition by division officer.

42. Every householder shall, whenever thereunto required by the division officer of the division in which such householder resides, or by any person acting on behalf of such division officer, fill up a list (A.) containing the number of inmates, and the name, age, and occupation of every male person (including such householder himself, if a male) resident in his house, so far as the same shall be known to him; and the division officer, or person acting on his behalf, shall ask the persons mentioned in such list who are liable to perform labour under this Ordinance, and who had not theretofore commuted or elected to commute, whether or not they elect to commute the same, and the purport of their reply shall be entered in the said list; and if any householder is unable to write he shall furnish the required information to the division officer, or person acting on his behalf, who shall enter the same in such list; and any householder refusing or neglecting to comply with any such requisition, or wilfully giving false information to the division officer, or to the person acting on his behalf, as to any matter or thing required to be inserted in such list, shall be liable to a fine not exceeding five pounds.

Absent persons usually residing with such householder to be named to the division officer.

43. If any male person who usually resides in the house of such householder shall be absent from home in some other division at the time any such householder is called upon to fill up any such list, such householder shall inform the division officer, or person acting in his behalf, of the name, age, and occupation of such absent person, and also of the place to which he has gone, and of the time when he is expected to return, so far as the same shall be known to such householder; and any householder neglecting or refusing to give such information, or wilfully giving false information, to the division officer or to the person acting on his behalf, as to any such matter or thing, shall be liable to a fine not exceeding five pounds; and the said division officer, or person acting on his behalf, shall enter the name and other particulars respecting any such absent person in such list, and shall inform the district committee of the name and supposed residence for the time being of such absent person.

Punishment for not giving information or giving false information to division officer.

Division officer to give information thereof to the district committee.

Division Officers.

Division officer to preserve lists; to deliver them to district committee if required; and to permit their inspection.

44. Every division officer shall carefully preserve the lists mentioned in section 42 for such period as the district committee may direct; and he shall be bound to deliver the same at any time to the district committee, if called upon so to do, and if the same are in his possession; and he shall at all reasonable times permit any inhabitant of his division liable to perform labour to inspect the same.

Division officer to make and preserve lists and returns.

45. Every division officer shall make and preserve such lists and returns, and shall conform to such instructions, as the provincial committee shall from time to time by writing require and prescribe.

Punishment of division officer for neglect of duty, misconduct, &c.

46. Any division officer who shall commit any of the following offences shall be liable to the punishment herein-after specified in each case:

Neglect of duty.

(1.) If he shall neglect his duty in anything required of him by this Ordinance for which no particular punishment is imposed, he shall be liable for every such offence to a fine not exceeding five pounds:

Default of payment of money due.

(2.) If he shall make default in the paying or accounting for any money received by him, within the time and according to the directions appointed by the district committee, he shall be liable for every such offence to a fine not exceeding treble the amount of the money so due:

Fraudulent acts.

(3.) If he shall by any wilful act, either of commission or omission, commit or attempt to commit any fraud in the execution of his office, or shall wilfully or fraudulently alter, deface, destroy, or make away with any book, list, account, or document in his charge or custody, or which he was bound to preserve, he shall be liable for every such offence to such punishment as the court before which he shall be convicted may in its discretion award.

On removal or resignation of division officer, district committee entitled to his books, &c.

47. In the case of the death, resignation, or removal of any division officer, the district committee shall be entitled to receive and take possession of all books, lists, accounts, and other things relating to his office which were in his possession; and if any division officer so removed from or resigning his office, or the representative of any deceased division officer, shall neglect or refuse to deliver within a time fixed by the said district committee the said books, lists, accounts, and other things, he shall be liable to a fine not exceeding five pounds for every day during which such neglect or refusal shall continue.

Headmen and others to assist division officers.

48. All headmen and all police and peace officers shall, when necessary, be aiding and assisting every division officer within their respective jurisdictions in the discharge of the duties imposed upon him; and every such headman or police or peace officer who shall wilfully neglect or refuse so to aid or assist shall be liable to a fine not exceeding five pounds.

Performance of Labour.

Performance of Labour.

49. Every male inhabitant between the ages of eighteen and fifty-five years shall be liable to perform six consecutive days labour in each year upon the thoroughfares in this Colony, or on works necessary for the formation, repair, or improvement thereof, or in the collection and preparation of materials required for any such purpose, or on any work sanctioned by the Legislative Council under the authority of this Ordinance.

Male inhabitants between 18 and 55 years liable to perform labour on the roads.

50. The following persons are exempted from the liability to labour imposed by the preceding section,

Exemptions.

(1.) The Governor:
(2.) All officers, non-commissioned officers, and soldiers belonging to the staff, or to any regiment or corps of Her Majesty's army serving in this Colony:
(3.) Buddhist priests:
(4.) Pioneers in the employ of Government:
(5.) Indian coolies in search of or employed in agricultural labour in this Island.

51. It shall be lawful for the district committee, upon proof to their satisfaction that any person resident within the district and liable to the performance of labour is either from disease or bodily or mental infirmity incapable of performing the same, to exempt such person from the performance thereof, either for life or for such period as they may think fit.

District committee to exempt persons incapable of labour.

52. No person liable to perform labour shall be required to attend for the performance thereof on a Sunday, nor except during the customary hours of labour, nor on any principal thoroughfare which shall be at a greater distance than fifteen miles from his residence, nor on any minor thoroughfare which shall be at a greater distance than seven miles from such residence.

Time and place of attendance to perform labour.

53. Every division officer, on being directed so to do by the district committee, shall give notice to the inhabitants of his division liable to perform labour, who have not elected to commute the same, to attend and perform such labour at the time and place, and in the rotation, appointed by the district committee; and such notice shall be given by publication, by beat of tom-tom in the division, a reasonable time before the day appointed for the attendance of such inhabitants, and by affixing copies of such notice at convenient places within such division, or otherwise by serving on any or all of such inhabitants a notice to each person to attend, if the district committee shall so order.

Division officer to give notice to inhabitants to attend and perform labour due.

54. Any person liable to perform labour as aforesaid, and who has not elected to commute, who shall without lawful excuse (the proof of which excuse shall lie on the party accused) fail to attend to perform such labour at the time and place appointed for that purpose, shall be liable to a fine not exceeding one pound; but it shall be the duty of the division officer, before commencing any prosecution in that respect, to report every such absent person to the district committee, who, after inquiry into the circumstances, may either direct a prosecution against any such

Punishment for not attending to perform labour due.

Division officer to report absentees to district committee,

Performance of Labour.

who may direct prosecution, or impose a fine.

If fine paid no further proceedings to be taken.

person for the offence by him committed, or require such person, on pain of prosecution for the offence, to make instant payment, by way of fine for his neglect, of a sum equal to double the amount of commutation in the province or district in which such person resides, and in default of such payment may direct such prosecution to be instituted as aforesaid; and if such fine be duly paid no further proceedings shall be had against any such person for the offence aforesaid, nor shall he be liable to perform any labour for the year, but payment of any such fine shall not be allowed to be made after the institution of any prosecution aforesaid.

Punishment of persons guilty of misconduct in the performance of the labour due by them.

55. If any person attending to perform the labour due by him, shall without lawful excuse (the proof of which excuse shall lie on the party accused) neglect or refuse to remain in attendance during the working hours, or to perform a reasonable amount of work, or shall be guilty of any drunkenness, wilful neglect, or disobedience of the orders of the officer in charge of the work on which he shall be employed, or of idleness, or of not taking due care of the tools and implements entrusted to him, or of any other misconduct in the performance of the labour required of him, every such person shall be liable for every such offence to a fine not exceeding two pounds.

Labour may be performed by substitute.

56. It shall be lawful for any person who has not elected to commute to cause the labour due by him to be performed by a substitute, approved by the chairman of the district committee, or by the officer in charge of the work on which he is to be employed; and the provisions of this Ordinance applicable to persons liable to perform labour shall be deemed to apply to their substitutes.

District committee may pay subsistence money.

57. It shall be lawful for the district committee, upon the application of any person who may be employed upon any work, to pay to such person as subsistence money for every day that he may be so employed a sum equal to one half of the ordinary rate of a coolie's wages in the district in which such work shall be situated: Provided that any person applying for and receiving such payment shall be liable to the performance of twelve consecutive days' labour, exclusive of Sundays, in the same year, and shall be subject to the provisions of sections 54 and 55, in respect of any offences therein mentioned.

District committee to determine questions of age, or rate of commutation or distance.

58. If any person shall claim to be exempted from the performance of labour by reason that his age is less than eighteen years or exceeds fifty-five years, or if at any time complaint shall be made that any person has been unduly exempted therefrom upon the like plea, or if any question shall be raised as to the rate of commutation which ought to be paid by any person for the labour due by him, or if any person shall refuse to labour upon any work upon the plea that the same is situated at a greater distance from the place where he resides than that prescribed by this Ordinance, it shall be lawful for the district committee of the district to which any such person shall belong to make such inquiry as they shall deem necessary, and to determine any such question, and the decision of such committee shall be final.

Commutation of Labour.

Commutation of Labour.

59. It shall be lawful for any inhabitant to commute the performance of the whole of the labour due by him for any year by a money payment of three shillings for such year, or of such other sum not exceeding three shillings as the Governor, with the advice of the Executive Council, may from time to time appoint in respect of the province or district in which such inhabitant resides: Provided that the rates of commutation now payable in any province or district shall continue to be levied therein until altered by proclamation.

Permission to commute.

Rate.

Present rates to continue payable until altered by the Governor.

60. Any person who has heretofore commuted under Ordinance No. 8 of 1848, or shall hereafter elect to commute the labour due by him for any year, shall, without any further notice to or election by him in that behalf, be deemed and taken to have elected to commute the labour to become due by him for every succeeding year, and shall be liable for the amount of the annual commutation in respect of such labour, unless and until he shall have given notice in writing to the district committee, one month at least before the end of the year in which any such notice may be given, that he no longer wishes to commute, whereupon a memorandum to that effect shall be made in the list of persons who have elected to commute, kept in the office of such district committee, and notice thereof shall be given by the said committee to the proper division officer, who shall make a similar entry in the list kept by him.

Person having once elected to commute, shall be liable for the annual amount of commutation until he gives notice to the contrary.

61. The amount due by any person as commutation for the labour of any year, shall be deemed and taken to be a debt to Her Majesty, her heirs and successors, and shall be payable to the division officer of the division in which such person resides at the time such person elects to commute, or afterwards on or before the first day of April in each year to such division officer, or to any person authorized by him to receive the same, and who shall give a receipt for the amount due signed by such division officer.

Commutation amount to be paid on demand of division officer.

62. Every division officer shall grant a receipt for any commutation money received by him to the person making such payment, and shall pay over all sums received by him as division officer to the district committee, at such times and in such manner as such committee shall direct; and all such sums shall forthwith be deposited in the cutcherry to the credit of the chairman of the provincial committee; and the order of such chairman for the payment of any money, together with the receipt of the party to whom the same is paid in pursuance thereof, shall be a full and sufficient authority and discharge for any such payment; and all such receipts and orders for payment as are mentioned in this section shall be free of stamp duty.

Division officer to grant receipt for commutation money, and pay it over to the district committee.

Money to be at disposal of chairman of provincial committee.

Receipts, &c. free of stamp duty.

63. After the first day of April in every year it shall be lawful for the district committee to cause a notice to be given, by beat of tom-tom, or in such other manner as the committee shall deem expedient, requiring those who have failed to pay to the division officer, as herein-before provided, forthwith to pay the amount due by them respectively, and a further sum of sixpence,

Proceedings in case of default.

Commutation of Labour.

to such committee, and intimating that if the same be not paid before a day to be mentioned in such notice an order will be issued for the summary recovery of double the amount of commutation.

Double the amount due additional to be summarily recovered.

64. If any person shall not pay the amount due by him as commutation and the further sum of sixpence to the said committee before the day specified in the notice mentioned in the preceding section, it shall be lawful for the chairman of such committee to transmit to the police magistrate of the district in which such person resides an order (B.) directing payment of double the amount so due to be made into the police court of such district, and the said police court shall proceed to enforce the same, and to deal with the person liable to make the same, in such manner as if a penalty for like amount had been imposed on him by the said police court. The sums so recovered shall be paid over to the chairman of the district committee, and shall be brought into account by him as sums recovered for and in respect of commutation money: Provided that such recovery shall be no bar to any action by such person against the division officer or district committee for damages on the ground that such recovery was unlawful.

Punishment for fraudulently lending or using commutation receipts.

65. If any person who has paid the amount due by him as commutation shall deliver any receipt given him by the division officer to any other person, in order that such last-mentioned person may make use of the same in proof of his having paid any sum of money due by him, or for any other fraudulent purpose, both the person lending such receipt to another for any such purpose, as well as the person deceitfully making use of the same as a receipt granted to him, shall be guilty of an offence, and be liable to such punishment as the court before which he is tried shall impose.

Execution of Works.

Execution of Works.

Management of works on principal thoroughfares to be vested in provincial committee.

66. The direction and control of any work directed by the Governor and the Legislative Council to be undertaken under this Ordinance upon any principal thoroughfare shall be vested in the provincial committee, the execution, however, of such work being left to the Commissioner of Roads for the time being, or such other officer as the Governor may direct; and the provincial committee shall as herein-after provided furnish the said Commissioner of Roads or other officer with the amount of labour voted by the said Council for every such work, or shall from time to time pay for such labour out of the sums received by them in commutation of labour due under this Ordinance.

Provincial committee to fix commencement of work.

67. The provincial committee shall as soon as may be after any work shall have been directed by the Governor and the Legislative Council to be undertaken upon any principal thoroughfare, or proposed principal thoroughfare, inform the Commissioner of Roads or other officer of the time at which they propose to commence such work; and it shall be lawful for such provincial committee and they are hereby required to determine, as to them shall appear expedient, the amount of the labour due from each division within

Provincial committee to apportion labour;

Execution of Works.

their province, to be applied to each such work; and the provincial committee shall inform each district committee of the amount of labour to be furnished by each division in conformity with such appropriation; and such district committee shall forthwith cause notices thereof to be affixed to such conspicuous places within the respective divisions as to them may appear expedient.

and inform district committee of the apportionment.

68. The district committee shall, subject to the approval of the provincial committee, have the application, direction, and control, as well as the superintendence, of the amount of labour not appropriated for works undertaken upon principal thoroughfares.

District committee to have control of one third of labour.

69. The officer in charge of any work to which this Ordinance is applicable shall give to the persons who have duly attended to perform, and have properly performed, the labour required of them by this Ordinance for the year in which they have been so employed a certificate (C.) of the due performance of such labour; and any officer who shall wilfully neglect or delay to grant such certificate to any person justly entitled to receive the same shall be liable to a fine not exceeding five pounds; and any person who shall deliver any such certificate to any other person, in order that such last-mentioned person may make use of the same in proof of his having performed the labour due by him, or for any other fraudulent purpose, both the person lending such certificate to another for any such purpose, as well as the person deceitfully making use of the same as a certificate granted to him, shall be guilty of an offence, and be liable to such punishment as the court before which he is tried shall impose.

Officer in charge of work to grant certificate of performance of labour.

Penalty for improper refusal of certificate.

Punishment for fraudulently lending or using such certificate.

70. The officer in charge of any such work as aforesaid shall inform the proper division officer, weekly, what persons have duly attended to perform and have properly performed upon such work the labour due by them for the current year, and what persons have refused or neglected to do so.

Officer in charge of work to inform the division officer what persons have performed labour.

71. It shall be lawful for such officer, and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper carriages and animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare, and there severally to do and perform all acts, matters, and things necessary for the purposes of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Ordinance.

Proper officers empowered to enter upon lands for repair, &c. of thoroughfares;

72. It shall be lawful for any such officer, with the servants, workmen, and labourers employed by or under him, at all reasonable times and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended thoroughfare; or

and to take materials.

Execution of Works.

of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith; or for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the ground of any person, without being deemed a trespasser: Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn, or any inclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common, or abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure the same: Provided also, that reasonable compensation for all materials so taken, and for the damage done by the getting and carrying away the same, shall be made to the owner thereof; and provided further, that such officer shall rail or fence off any quarries or pits from which any such materials shall be taken, so that the same shall not be dangerous to any person or animal.

Proviso.

And erect buildings;

73. It shall be lawful for any such officer when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and to keep duly tethered and stabled all such oxen, horses, and animals as may be employed by him upon any lands near or adjacent thereto, and to continue so to keep the said oxen, horses, and animals on such lands and for such time as may be necessary: Provided that no such building shall be erected, nor any such oxen, horses, or other animals kept on any land which shall be under cultivation, nor where there are neighbouring waste lands or common or abandoned grounds available for the purpose; and provided further, that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

and keep cattle, &c.;

and throw rubbish upon adjacent lands;

74. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall and may be lawful for any such officer to throw upon any lands adjacent or near thereto such earth, rubbish, or materials as it shall or may be necessary to remove from the place of any such work.

and make temporary road;

75. It shall be lawful for any such officer to make a road through the grounds adjacent or near to any existing or intended thoroughfare during the execution of any work thereupon or in

any way connected therewith; provided such road shall not run over any ground whereon any building stands, nor over an inclosed garden or yard.

Execution of Works.

76. It shall be lawful for any such officer to cut and remove and place upon any ground adjacent or near thereto; all trees, bushes, or shrubs, and all leaves or branches or roots of trees that shall grow in or overhang any thoroughfare, or cause any obstruction therein and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots.

and cut trees;

77. It shall be lawful for any such officer to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare, whenever to him it shall appear necessary, and the owners or occupiers of land adjoining such fences, hedges, ditches, drains, or banks shall and they are hereby required to keep the same in good and substantial repair and order.

and put up fences;

78. Every such officer shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses, and also to make and lay such trunks, tunnels, plats, or bridges, as he shall deem necessary for the protection, preservation, improvement, repair, or construction of any road or canal in and through any lands or grounds adjoining or lying near to such road or canal, or intended road or canal.

and to make and keep open ditches, &c., and to lay trunks, &c.;

79. Every such officer shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any road, and to allow the same to remain there during the time such road is under repair, and for such time before the repairs are commenced, and after the repairs are completed, as may be necessary for facilitating the making of such repairs, or for preventing damage to such recently repaired road, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such road.

and to lay stones, &c. on road.

80. Every person who shall sustain any loss or damage by reason of the exercise of any of the powers and authorities conferred by this Ordinance upon officers in charge of works to which it is applicable shall be entitled to receive compensation for the same; provided he shall make application in that behalf to the chairman of the proper provincial or district committee at any time before the expiration of three months after the act, matter, or thing in respect of which such damage shall be alleged to have been done, and if he shall fail to make such application within the aforesaid period his claim to compensation for the alleged injury may be disallowed, and he shall be barred from recovering the same; and the amount of compensation, if the same cannot be agreed to, may be decided by arbitration, the provincial committee naming one arbitrator, and the person claiming compensation another. If the two arbitrators cannot agree they shall appoint an umpire, and the award of the arbitrators or umpire, to be given in terms of the reference to be agreed to by the parties, shall be final.

Compensation for injury to property by authorized officers.

Reference to arbitration.

Execution of Works.

Powers conferred on officers in charge of public works, by whom to be exercised.

81. Every chairman of a provincial or district committee, within the limits of the province or district for which such committee is assigned to act, the Commissioner of Roads, and every person authorized in writing by any such chairman or Commissioner of Roads, shall and may by themselves, their servants, workmen, and labourers, exercise the several powers and authorities conferred by this Ordinance on officers in charge of works to which this Ordinance is applicable.

Vexatious conduct of officer.

82. Every person acting under the authority of this Ordinance who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence or give any uncalled-for and vexatious annoyance, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds.

Obstruction of officer.

83. All persons who shall wilfully resist, obstruct, hinder, or molest, and all persons who shall incite, assist, or procure others to resist, obstruct, hinder, or molest any person acting under the authority of this Ordinance in the discharge of any duty or the performance of any act which they shall be authorized or required to perform by this Ordinance, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds.

Encroachments.

Committee may in certain cases demand production of title deeds;

Encroachments.

84. And whereas the line of many thoroughfares has been altered to suit the purposes of private parties, and many obstructions and encroachments have been made in and upon the said thoroughfares, to the great inconvenience and injury of the public: It is enacted, that whenever it shall appear to the provincial or district committee that any building, inclosure, or obstruction shall have been raised or made in any thoroughfare, or on any waste or other ground immediately adjoining thereto and belonging to Her Majesty, it shall be lawful for any such committee to demand in writing of the person claiming to be the owner of the premises on which such building, inclosure, or obstruction shall have been raised or made, the production of every deed, document, and instrument upon which such person founds such claim; and if the occupier of such premises, not being himself the alleged owner, shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by any such committee, or if such alleged owner shall refuse to produce within ten days after being requested so to do every deed, document, and instrument upon which he founds his claim to the said premises, and which shall be in his possession, or if any such deed, document, or instrument shall not be in his possession shall refuse fully to inform any such committee, upon application, in whose possession they are; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by any such committee, every such occupier, alleged owner, and person so refusing, shall be liable to a fine not exceeding five pounds; and it shall be lawful for any such com-

mittee, or any person thereto authorized by the chairman thereof, to enter upon any premises upon which any such building, inclosure, or encroachment shall have been raised or made as aforesaid, and upon any other premises whatsoever which it may be necessary to enter for the purposes of the survey herein-after mentioned, and to make such survey of all such premises as may be necessary to enable any such committee to ascertain whether such building or inclosure is an encroachment upon any thoroughfare, or upon any land adjoining thereto and belonging to Her Majesty.

Encroachments.

and make survey of premises.

85. The deeds, documents, and instruments in the preceding clause mentioned shall be produced on the premises to which the same may relate, or at such other place as the provincial or district committee may require, and the power of demanding the production thereof, in the preceding clause given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary; and every person refusing or failing to permit such examination of any such deed, document, or instrument to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to any fine not exceeding five pounds.

Demand of production of deed to include power of examination.

86. It shall not be lawful for any person to commence any building, wall, or fence along any thoroughfare, or to place any temporary fence or inclosure on any such thoroughfare, for commencing or repairing any such building or wall, without giving seven days' previous notice in writing to the chairman of the district committee of the district within which such building, wall, fence, or inclosure is about to be commenced; and any person neglecting to give such notice shall be liable to a fine not exceeding five pounds; and it shall be lawful for the chairman of the said committee, with the sanction of the provincial committee, to cause any building, wall, fence, or inclosure, commenced or erected without such notice to be removed, and to recover the costs of such removal in the manner provided in section 90, for the recovery of the costs therein mentioned: Provided that nothing herein contained shall be deemed to deprive any provincial or district committee of the power herein-after conferred on them of removing any such building, wall, fence, or inclosure, if the same be ultimately discovered to be an encroachment, notwithstanding that no proceeding shall have been taken by them on the said notice.

Notice of intended building along a thoroughfare.

87. Nothing herein contained shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, nor to prevent the chairman of any provincial or district committee from granting his license to the inhabitants for the erecting of temporary fences and inclosures, in order to the building, pulling down, or repairing of their houses and other buildings, or of temporary decorations, within such province or district, provided the length and breadth of such inclosures be described in such license, and that there be sufficient room for carriages and carts, or boats, to pass: Provided that the person obtaining such

Where the erecting of temporary fences and inclosures is allowed.

Encroachments.

license shall immediately after sunset, during all the time that the inclosure shall continue, if so required by the said chairman of the provincial or district committee in such license, place and keep a sufficient light upon the premises till daybreak, and any person removing or extinguishing such light during such time shall be liable to a fine not exceeding one pound.

Proof of right to apparent encroachment to rest upon the owner.

88. Whenever it appears to a provincial or district committee that the line of any thoroughfare within the province or district for which such committee is assigned to act has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, such committee shall give notice in writing to the occupier of the land from off which the said thoroughfare shall be alleged to have been turned, or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, that a survey of the premises has been made by the authority of such committee, and is open to the inspection of such occupier at a place to be therein mentioned, and that unless within one month from the service of such notice he, or the person under whom he holds, shall take legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the said committee will proceed with the removal thereof, in manner provided by section 90 of this Ordinance ; and if no such legal proceedings are taken within the time specified, or being taken are not duly prosecuted, it shall be the duty of such committee to cause any such obstruction or encroachment to be forthwith removed as herein-after provided. Where legal proceedings are taken as aforesaid it shall be incumbent on the party claiming to be the owner of the land from off which the line of any thoroughfare has been alleged to have been altered or turned, or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, to prove his title to such land.

Survey by proper officer to be conclusive evidence.

89. If any plan or survey made by the authority of the provincial or district committee shall be proved in evidence in any proceeding under this Ordinance, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited therein, in so far as the claim of Her Majesty is concerned, unless satisfactory proof to the contrary shall be established by the party contesting such claim.

Removal of obstructions or encroachments.

90. It shall be lawful for the provincial or district committee to give order verbally, or by notice in writing, to any person obstructing or encroaching upon any thoroughfare situate within the province or district for which such committee is assigned to act, forthwith to remove or abate the same ; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom such order should be given, it shall be lawful for the said provincial or district committee to cause any such obstruction or encroachment to be forthwith removed or abated, and for that purpose it shall be lawful for the said committee, or any person thereto authorized in

writing by the chairman thereof, where necessary, to enter into any house, garden, inclosure, or other premises, and to cause to enter therein such persons, with such instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement; and upon the chairman of the said committee certifying to the police court of the district where such person resides, or where such obstruction or encroachment existed, the costs which have been *bonâ fide* incurred in effecting such removal or abatement, such court shall summon the party, on account of whose non-compliance with any such order such costs were incurred, to appear before it on a certain day, then and there to make payment of the costs which shall appear to such court to have been properly incurred in that behalf; and if such party shall refuse or fail to make such payment forthwith, or within such time as the court shall appoint, the court shall proceed to recover such payment in such and the same manner as it would proceed to recover any fine incurred under any sentence of such court: Provided that if any removal shall be effected after the due production of all deeds, documents, and instruments affecting the title to such premises, and such premises shall nevertheless be adjudged to be the property of the party laying claim to the same, such committee shall be liable in damages for all loss and injury occasioned thereby; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents, and instruments, or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and any such committee shall nevertheless have caused the removal of such building, inclosure, or encroachment, then in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof any such committee shall not be liable in damages for any loss or injury occasioned thereby.

Encroachments.

Costs.

Proviso.

Injuries to Thoroughfares.

Injuries to Thoroughfares.

91. Whosoever shall commit any of the following offences on or relating to any thoroughfare shall be liable to a fine not exceeding 5*l.*:

Destroying mile-stones, bridge, &c.

1. Whosoever shall wilfully destroy, pull up, deface, throw down, break, or injure any mile-stone, mile-post, lamp-post, or direction post, or any bridge, battlement, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain, or fence belonging to any thoroughfare, or put up at or near any pit or quarry opened or used for getting road materials:

Removing fence log, &c. put up or laid on thoroughfare to prevent temporarily its use.

2. Whosoever shall wilfully and unnecessarily remove any fence, post, stone, log, or other thing laid or put up by the authority of the Commissioner of Roads, or of any provincial or district committee, on or in any thoroughfare, for the temporary prevention of the use thereof, or for pre-

Injuries to Thoroughfares.

venting danger or injury to persons passing along the same whilst undergoing repair:

Taking away stones, gravel, &c.

3. Whosoever shall, without such authority as aforesaid, gather or heap up, or take away, any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any thoroughfare:

Injuring thoroughfare by driving ox, &c. from or on or into it.

4. Whosoever shall lead or drive any ox, horse, pig, or other animal from or off or on or into any thoroughfare in such manner as to cause injury to the same, or shall suffer any such animal to damage the same:

Suffering passage of water from road to be obstructed.

Suffering water, filth, &c. to flow upon road.

5. Any owner or occupier of any land continguous to any road who shall suffer the passage of the water from such road, or from any ditch or drain leading therefrom, to be obstructed by making or leaving any way or passage from any road into the adjoining land, or into his house, without a sufficient sewer, gullet, or pipe underneath it; or who shall suffer any water, filth, or other substance or thing to flow or run from such land or house into or upon any such road, or shall suffer any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water:

Hauling or trailing timber, &c.

6. Whosoever shall haul or draw upon any thoroughfare any timber, stone, or other thing, otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon such thoroughfare to the damage thereof:

Making any dams, ditch, drains, &c. upon or across any thoroughfare.

7. Whosoever shall make or cause to be made any dam, ditch, drain, or watercourse upon or across or shall otherwise break up or injure the surface of any thoroughfare:

Attaching additions to the eaves of houses, or causing carts to be loaded or unloaded in front of dwellings, &c.

8. Whosoever shall attach additions to his house so as to project over the outer edge of the side drain of any road, or who shall by means of temporary supports or otherwise expose goods or wares of any description over any portion of a road or its side drain, or who shall by causing carts to be loaded or unloaded in front of his dwellings in any way injure the side drain.

Using new road for certain time after making.

92. It shall be lawful for any provincial or district committee to forbid all persons from riding or driving any kind of beast or carriage on any road within their province or district for such space of time as shall to them appear necessary, not exceeding one month after such road shall have been made or repaired; and any person who shall wilfully disobey such order (the same being duly notified by a notice affixed to a board or boards erected upon or near to such road) shall be liable to a fine not exceeding five pounds.

Owner or occupier bound to have bridge, &c. over drain leading to his house.

93. If the owner or occupant of any house or premises adjoining any road, by the side of which a drain shall have been made or excavated, shall require the means of access to such house or premises from such road, he shall be bound to place a bridge, platform, or arch, which shall in no case cover less than four feet

of the length of such drain; and it shall be lawful for the provincial or district committee of the province or district in which such house or premises are situated, or for the Commissioner of Roads, if it shall come to their knowledge that any parties have access to any house or premises so situated without such bridge, platform, or arch as aforesaid, to call upon the owner or occupant thereof forthwith to construct the same, and if he shall fail to do so within a reasonable time to cause the same to be done, and to recover the costs thereof in the manner provided in section 90 for the recovery of the costs therein mentioned.

Injuries to Thoroughfares.

Nuisances on Thoroughfares.

Nuisances on Thoroughfares.

94. Whosoever shall commit any of the following offences shall, except where other provision is herein expressly made, be liable to a fine not exceeding *5l.*

1. Whosoever shall turn or suffer to be turned loose any ox, horse, sheep, or goat, on any road or canal; or shall tie or tether any ox, horse, or other animal of any description, so that any such animal can or shall make its way into any road or canal, unless such animal shall be so tied or tethered during the time required for loading or unloading it, or for the loading or unloading of any cart or boat to which it may belong.

Turning cattle loose on road or canal.

Tying cattle on or near road or canal.

And it shall and may be lawful for any person thereto authorized by the chairman of a provincial or district committee to seize any ox, horse, sheep, or goat which he may find tied, tethered, or straying upon any thoroughfare within the province or district for which such committee is assigned to act, unless any such animal belong to any cart or boat to which it is tied or tethered whilst the same is being loaded or unloaded: Provided that if the person authorized as aforesaid shall not be a peace or police officer, every such animal seized by him shall be forthwith delivered into the custody of the nearest peace or police officer; and every such officer seizing or receiving any such animal as aforesaid shall forthwith report such seizure to the proper police court, and such court shall, if at the time of such report no claim be made to such animal, direct such officer to take the necessary steps for the safe custody and maintenance thereof, and to publish such seizure in the usual manner; and no such animal seized as aforesaid shall be delivered to the owner thereof unless upon payment into such court of the sum of two shillings, for the use of the person by whom the same shall have been seized, and of a further sum of threepence for each day during which the same shall have been kept in the custody of the said officer, for the use of such officer; and if no person shall claim such animal or pay such dues as aforesaid within ten days after the animal shall have been so seized, it shall be lawful for such officer, and he is hereby required, to sell the same by public auction, and after payment of two shillings to the person by whom the same may

Seizure of stray cattle.

Nuisances on Thoroughfares.

have been seized, and of the sum due to himself for the custody and maintenance thereof, to pay the remainder of the produce of such sale, if any, to the police court for the use of Her Majesty.

Destruction of stray pig.

2. Any owner of a pig found tied, straying, burrowing, or wallowing in any road or canal, shall be liable to a fine of three shillings; and it shall be lawful for every person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any road or canal; and such person may, if he choose, take such pig to any peace or police officer of the district in which the offence was committed, who shall forthwith sell the same, and pay the produce of such sale to such person.

Hanging up mats, &c.

3. Whosoever shall hang up or otherwise expose any mats, cloths, or other substances on or at the side of any road, in a manner calculated to terrify horses or endanger the passengers.

Leaving carts on roads to which this provision is extended.

4. Whosoever shall leave, or permit to be left, on any road to which this provision shall be extended, as herein-after mentioned, any cart or other carriage, without the oxen, horses, or other animals being yoked or harnessed thereto, unless such cart or carriage shall have accidentally broken down there; and in case of such accident, for a longer time than may be necessary for its removal.

5. Whosoever shall drive any cart drawn by one or more bullocks, or suffer the same to remain in any thoroughfare between the hours of sunset and sunrise without having a light attached thereto.

Governor by proclamation may extend this provision to any road.

And it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to declare that the aforesaid provision shall extend and be applicable to any road in this Colony, or to any section of such road, whenever it shall appear to the said Governor and Council that a sufficient number of halting places have been constructed along the same; and thereupon such provision shall extend and apply to any road, or section of a road, mentioned in such proclamation.

Leaving boat or timber, &c. so as to obstruct passage on canal.

6. Whosoever shall leave any boat or raft in any canal in such a way as to obstruct the passage on such canal.

Laying stones, timber, rubbish, &c. on the road or canal.

7. Whosoever shall lay or throw any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scourings of any ditch or drain, or other object or thing, on or in any road, river, or canal, and shall allow the same to remain there, except for such a period as shall be absolutely necessary for the removal thereof.

Persons placing stones upon roads at Jaffna.

And whereas it is customary in the cultivation of lands situated in the peninsula of Jaffna to remove the stones from the same from time to time, and whereas the stones so removed are frequently placed upon the roads: It is enacted, that whenever any stones shall be found to be so placed upon any road within the district aforesaid, the placing thereof shall be deemed to be the act of the person in occupation of the land immediately adjoining,

unless the contrary be proved, and such person shall be liable to the penalties herein provided.

Nuisances on Thoroughfares.

8. Whosoever shall lead or drive on any road any cart or other carriage with timber, boards, iron or other goods, so that either end shall project beyond the wheels or sides thereof.

Carrying timber, &c., crosswise.

9. Whosoever shall encroach on any thoroughfare by making or causing to be made any building, platform, hedge, ditch, or fence, or other obstruction upon or in any thoroughfare.

Encroachment on thoroughfare.

10. Whosoever shall, after having blocked or stopped any cart or other carriage in going up or down a hill or rising ground, cause or suffer to be or remain on any road the stone, timber, or other thing with which such cart or other carriage shall have been blocked or stopped.

Leaving block on road.

11. Whosoever shall in any manner wilfully prevent any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any thoroughfare.

Preventing others from passing.

12. Whosoever shall place or continue any kraal or fence, or any other obstruction in any canal or river, so as to impede or in any way interfere with the convenient navigation thereof.

Erection of kraals in canals and rivers.

And it shall be lawful for the provincial committee to cause any such kraal, fence, or obstruction so placed or continued as aforesaid to be pulled up or otherwise destroyed, and to recover the costs thereof in the manner provided in section 90 for the recovery of the costs therein mentioned: Provided that nothing herein contained shall render any officer in charge of any work on any thoroughfare, or any road contractor, liable to any fine for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract; but if any such officer or contractor shall lay or cause to be laid any heap of stones, gravel, rubbish, or other matter whatever upon any road, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon, (all due and reasonable precautions not having been taken by him to prevent any such danger or damage,) such officer or contractor shall be liable to a fine not exceeding five pounds.

Road officer or road contractor not liable to fine except in certain cases.

95. It shall be the duty of all officers of the police force, and of all headmen, police, and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdictions; and every officer or headman who, being cognizant of any such offence, whether upon his own view or upon the information of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds.

Police officers and headmen to enforce provisions of Ordinance.

SCHEDULE.

A.

Division of District of

List of residents in the house of *A.B.* at

Number of Inmates.	Names in full of Males.	Age.	Condition.	Whether he elects to commute or not.

Dated the day of

(*Signed by Division Officer.*)

N.B. Any householder refusing or neglecting to fill up the above when required, or (if unable to write) to give the necessary information to the division officer, or wilfully giving any false information as to any matter required to be inserted herein, is liable to a fine of 5*l.*

B.

ORDER FOR RECOVERY OF COMMUTATION.

In the District Committee of

It is ordered that the persons whose names and residences are under mentioned do forthwith pay into the police court of the respective sums set opposite to their names, being double the amount of the commutation due by them for the year 186 .

Names of Defaulters.	Residence.	Amount.		
		£	*s.*	*d.*
A.B.	*Galkisse*	0	6	0
C.D.	*Wellewatte*	0	3	0

Given under my hand at the day of 186

Chairman Dist. Com.

C.

CERTIFICATE OF PERFORMANCE OF LABOUR.

No.

I certify that

of

duly performed six days' labour due by him for the year 186 , between the and of , with the working party employed at

(*Signed by Officer in charge.*)

(*Date.*)

16th October 1861.

119.

No. 11 OF 1861.

An Ordinance to consolidate and amend the Law relating to Stamp Duties.

WHEREAS it is expedient to consolidate and amend the law relating to Stamp Duties: It is enacted as follows: Preamble.

Preliminary.

1. Has had its effect.

2. This Ordinance may be cited for all purposes as "The Stamp Ordinance, 1861." Short title.

3. Repealing clause.

General Provisions.

4. The several instruments mentioned and described in the schedule hereunto annexed (except those standing under the head of exemptions) shall be written or printed on paper or other material stamped in such manner as to express or denote the duties or sums of money charged thereon under this Ordinance, which duties are set down in figures against the same respectively, or otherwise specified and set forth in the said schedule; and the said schedule and every provision contained therein shall be deemed and taken to be part of this Ordinance, and shall be applied and put in execution accordingly. Duties specified in schedule to be levied.

5. It shall be lawful for all persons having in their possession any stamped paper or other material not made use of, and which, by the operation of this Ordinance, shall have been rendered unfit for the instruments for which the same was originally designed, to send the same to the Stamp Office in Colombo, at any time within twelve months from the time when this Ordinance shall come into operation; and it shall be lawful for the Colonial Secretary to cause the same to be cancelled, and other stamps of equal value on the whole with the stamps so returned to be given in lieu thereof; or otherwise at the discretion of the said Colonial Secretary to cause any additional stamp or stamps to be impressed on any such paper or other material to make up the full amount of the duty hereby charged on the instruments for which the same was designed, on payment to the Commissioner of Stamps of the duty or duties denoted by such additional stamp or stamps. Stamps rendered useless by this Ordinance may be exchanged.

6. Except as otherwise provided by this Ordinance, no deed, instrument, or writing for which any duty shall be payable under this Ordinance shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any civil proceeding in any court of justice, or shall be acted upon in any such court, unless such deed, instrument, or writing be upon a Effect of a writing not duly stamped.

stamp of a value not less than that indicated to be proper for it by the said schedule: Provided that every deed, instrument, or writing liable to stamp duty shall be admitted as evidence in any criminal proceeding, although it may not have the stamp required thereon by law.

Proviso as to criminal cases.

Instruments having wrong stamps, but of sufficient value, to be valid.

7. All instruments for or upon which any stamp or stamps shall have been used of an improper rate of duty, but of equal or greater value in the whole with or than the stamp or stamps which ought regularly to have been used thereon, shall nevertheless be deemed valid and effectual in law.

All writings to be either on or near the impressed stamp.

8. All writings, matters, and things in respect whereof any stamp duty shall be payable, and which shall be written or printed after this Ordinance shall have come into operation, shall be written or printed in such manner that some part thereof shall be either upon or as near as conveniently may be to the stamps impressed on the paper or other material whereupon the same shall be written or printed, upon pain that the person who shall write or print, or cause to be written or printed, any such writing, matter, or thing, contrary to the tenor and true meaning hereof, shall for every such offence be liable to a penalty not exceeding five pounds.

No instrument requiring a stamp to be issued by any public officer, unless the duty is first paid.

9. In any case in which any person is entitled or required to demand, receive, or obtain from any public officer in the service of Her Majesty, or of the Government of this Island, in virtue of his office, or in which any such public officer is required or authorized to issue to any person any instrument whatever which is required to bear a stamp, it shall be lawful for such public officer, and he is hereby required, to refuse to issue or grant to and to withhold from such person any such instrument until the proper amount of stamp duty payable thereon shall first have been paid by such person in respect of such instrument, or until a paper stamped with the proper amount of duty shall have been supplied and delivered by him to such public officer.

Stamps not to be annexed to instruments.

10. It shall not be lawful to attach or annex to any instrument whatever liable to be stamped any stamped paper or other material so as to make up, either wholly or in part, the amount of duty required by law thereon, nor shall such amount of duty be by such means deemed or held to be made up; but every paper or other material forming or intended to form part of any instrument liable to be stamped as aforesaid shall have written or printed thereupon the whole or some portion of such instrument.

Printed forms may be stamped before they are used.

11. Before any printed form of an instrument liable to stamp duty shall be signed, the paper or other material on which the same is printed may be taken to the Colonial Secretary, who shall cause the same to be stamped, upon payment to the Commissioner of Stamps of the duty payable thereupon.

Bills, Notes, Drafts, Receipts, &c.

Duties on bills drawn out of this Colony to be denoted by

12. The duties imposed by this Ordinance in respect of bills of exchange drawn out of this Colony shall attach and be payable upon all such bills as shall be paid or negotiated within this

Colony, wheresoever the same may be payable; and the said duties shall be denoted by adhesive stamps, to be provided by the Commissioner of Stamps for that purpose, and to be affixed to such bills as herein-after directed.

adhesive stamps.

13. Every bill of exchange which purports to be drawn at any place out of this Colony shall, for all the purposes of this Ordinance, be deemed to be a foreign bill of exchange drawn out of this Colony, and shall be chargeable with stamp duty accordingly, notwithstanding that in fact the same may have been drawn within this Colony.

Bills purporting to be drawn out of this Colony deemed for the purposes of this Ordinance to be so drawn.

14. The holder of any bill of exchange drawn out of this Colony, and not having a proper adhesive stamp affixed thereon as herein directed, shall, before he shall present the same for payment, or in any manner negotiate such bill, affix thereon a proper adhesive stamp for denoting the duty chargeable thereon; and the person who shall negotiate such bill shall, before he shall deliver the same out of his hands, custody, or power, cancel the stamp so affixed by writing thereon his name, or the name of his firm or principal, or the initials thereof respectively, and also the date of the day and year on which he shall so write the same, to the end that the same stamp may not be again used for any other purpose; and if any person shall present for payment, or shall pay or negotiate any such bill as aforesaid, whereon there shall not be such adhesive stamp as aforesaid duly affixed, or if any person who ought to cancel such stamp in manner aforesaid shall refuse or neglect so to do, such person so offending in any such case shall forfeit a sum not exceeding twenty pounds; and no person who shall take or receive from any other person any such bill as aforesaid, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such bill there shall be such stamp as aforesaid affixed thereon and cancelled in the manner hereby directed.

The holder of a bill drawn out of this Colony to affix an adhesive stamp thereon before negotiating it.

Penalty for negotiating such bill without a stamp affixed, or neglecting to cancel such stamp.

15. If any person shall within this Colony make, sign, or issue, or cause to be made, signed, or issued, or accept or pay, or cause or permit to be accepted or paid, any bill of exchange, draft, cheque, or order, or promissory note for the payment of money, liable to any of the duties imposed by this Ordinance, without the paper whereon the same is written being impressed with a stamp denoting the duty chargeable thereon, except as is excepted in the 29th section, he shall for every such bill, draft, cheque, order, or note, forfeit a sum not exceeding twenty pounds; and no person who shall take or receive from any other person any such bill, draft, cheque, order, or note as aforesaid, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose whatever: Provided that nothing in this section contained shall extend or be construed to apply to foreign bills of exchange drawn out of this Colony, nor to drafts, cheques, or orders for payment of money to the bearer, or to order on demand, which shall have an adhesive stamp affixed thereto, as herein-after mentioned.

The making of inland bills, &c. not duly stamped.

The drawing and issuing or negotiating of bills purporting to be drawn in a set, and not drawing the whole number of the set, prohibited.

16. If any person who shall within this Colony draw and issue any bill of exchange payable out of this Colony purporting to be drawn in a set, and shall not draw and issue, on paper duly stamped as required by law, the whole number of bills which such bill purports the set to consist of; or if any person who shall within this Colony transfer or negotiate any such bill of exchange as aforesaid purporting to be drawn in a set, and shall not at the same time transfer or deliver, on paper duly stamped as aforesaid, the whole number of bills which such bill purports the set to consist of, every such person so offending in any of such cases shall forfeit the sum of fifty pounds; and if any person shall take or receive in this Colony any such bill as aforesaid, either in payment or as a security, or by purchase or otherwise, without having transferred or delivered to him, duly stamped as aforesaid, the whole number of bills which such bill purports the set to consist of, he shall not be entitled to recover on any such bill, or to make the same available for any purpose whatever.

Penalty on taking or receiving such bills.

Penalty for post-dating bills of exchange.

17. If any person shall make and issue, or cause to be made and issued, any bill of exchange, draft, cheque, or order or promissory note for the payment of money at any time after date or sight, which shall bear date subsequent to the day on which it shall be issued, unless the same shall be duly stamped as a bill or note, such person shall for every such bill, draft, cheque, or order forfeit any sum not exceeding twenty pounds.

Penalty for post-dating drafts on bankers.

18. If any person shall make and issue, or cause to be made and issued, any bill, draft, cheque, or order for the payment of money to the bearer on demand upon any banker, or any person acting as a banker, which shall be dated on any day subsequent to the day on which it shall be issued, or which shall not truly specify and express the place where it shall be issued, unless the said bill, draft, cheque, or order shall be duly stamped as a bill or note according to this Ordinance, such person shall for every such bill, draft, cheque, or order forfeit any sum not exceeding twenty pounds; and if any person shall knowingly receive or take any such bill, draft, cheque, or order in payment of or as security for the sum therein mentioned, he shall for every such bill, draft, cheque, or order forfeit any sum not exceeding twenty pounds; and if any banker, or any person acting as banker, upon whom any such bill, draft, cheque, or order shall be drawn, shall pay, or cause or permit to be paid, the sum of money therein expressed, or any part thereof, knowing the same to be post-dated, such banker or person so offending shall for every such bill, draft, cheque, or order be liable to forfeit the sum of one hundred pounds, and moreover shall not be allowed the money so paid, or any part thereof, in account against the said person by or for whom such bill, draft, cheque, or order shall be drawn by his executors or administrators, or creditors, or persons representing creditors, in case of bankruptcy or insolvency, or any other person or persons claiming under him or them.

Notes and bills issued by bankers liable to stamp duties

19. All unstamped promissory notes and bills of exchange issued by any banker or banking corporation in this Colony, and in circulation when this Ordinance comes into force, shall be

subject and liable to the stamp duties or composition for stamp duties imposed by or payable under this or any other Ordinance in force upon or in respect of promissory notes for the payment of money to the bearer on demand.

and composition for the same.

20. The duty of one penny imposed by this Ordinance on drafts, cheques, or orders for payment of money to the bearer or to order on demand, and on receipts respectively, may be denoted either by a stamp impressed on the paper whereon any such instrument is written, or by an adhesive stamp affixed thereto, and the Commissioner of Stamps shall provide stamps of both descriptions for the purpose of denoting the said duties.

Stamps denoting the duty of 1*d.* on drafts, cheques, and receipts, may be impressed or affixed.

21. The adhesive stamps provided by the Commissioner of Stamps for denoting the duty of one penny payable on drafts, cheques, or orders for payment of money to the bearer, or to order on demand, and on receipts respectively, may lawfully be used for the purpose of denoting the like amount of duty either on such draft, cheque, or order as aforesaid, or on a receipt, without regard to the special appropriation thereof for the other of such instruments by having its name on the face thereof.

Adhesive stamps of 1*d.* may be used for drafts or receipts without regard to their special appropriation.

22. In any case where an adhesive stamp shall be used for the purpose aforesaid on any draft, cheque, or order, or on any receipt respectively, chargeable with the duty of one penny by this Ordinance, the person by whom such draft, cheque, or order shall be signed or made, or such receipt given, shall, before it shall be delivered out of his hands, custody, or power, cancel the stamp so affixed by writing thereon his name, or the name of his firm, or part of such name, to the end that the same stamp may not be again used for any other purpose ; and if any person who shall make or sign any such draft, cheque, or order, or write any such receipt or discharge with an adhesive stamp thereon, shall not *bonâ fide* in manner aforesaid effectually cancel such stamp he shall forfeit the sum of ten pounds.

Where adhesive stamp is used it is to be cancelled by writing the name on it.

23. Whenever any bill of exchange, draft, cheque, or order having thereon an adhesive stamp shall be presented for payment, the person to whom the same shall be presented shall, upon paying the same, write or impress, or cause to be written or impressed, upon every stamp affixed to the bill the word "paid," to the end that the same may be more effectually cancelled and made incapable of being used again, and in default of so doing he shall forfeit a penalty not exceeding twenty pounds.

Person paying bill of exchange, cheque, draft, or order, to insert paid on stamp.

24. Where any draft, cheque, or order for the payment of money by any banker, or person acting as a banker, chargeable with the stamp duty of one penny, shall come to the hands of such person unstamped, it shall be lawful for him to affix thereto the necessary adhesive stamp, and to cancel the same in manner by law required, and upon so doing to make the payment thereby directed, and to charge the duty in account against the person who ought to have paid the same, or to deduct such duty from the sum so directed to be paid, and such draft, cheque, or order shall, so far as relates to the stamp duty chargeable thereon, be good and valid, but this shall not relieve any person from the liability to

Banker may affix stamp to draft, cheque, or order.

the penalty he may have incurred by issuing the said draft, cheque, or order unstamped.

Penalty for committing frauds in the use of adhesive stamps.

25. If any person shall fraudulently remove, or cause or procure to be removed, or assist in removing from any instrument, document, or writing of any kind any adhesive stamp, or if any person shall affix any such stamp which shall have been so removed to any other instrument, document, or writing chargeable with stamp duty, or to any paper, with intent that such stamp might be used again; or if any person shall sell or offer for sale or utter any stamp, or shall utter any instrument, document, or writing with any stamp thereon which shall have been so as aforesaid removed, knowing the same to have been removed, or shall practise or be concerned in any fraudulent act, contrivance, or device not specially provided for, with intent or design to defraud Her Majesty, her heirs or successors, he shall forfeit, over and above any other penalty to which he may be liable, the sum of twenty pounds.

Drafts to bankers payable to order on demand sufficient authority for payment without proof of indorsement.

26. Any draft, cheque, or order drawn upon a banker for a sum of money payable to order on demand which shall, when presented for payment, purport to be indorsed by the person to whom the same shall be payable, shall be a sufficient authority to such banker to pay the amount of such draft, cheque, or order to the bearer thereof; and it shall not be incumbent on such banker to prove that such indorsement, or any subsequent indorsement, was made by or under the direction or authority of the person to whom the said draft, cheque, or order was or is made payable either by the drawer or any indorser thereof.

Penalty for writing receipts not duly stamped.

27. Every person who shall write or sign, or cause to be written or signed, any receipt, discharge, or acquittance given for or upon the payment of money liable to stamp duty upon any paper or other material, without the same being first duly stamped with a stamp as herein is directed, shall forfeit and pay any sum not exceeding five pounds, in case the sum paid, contained, or expressed in such receipt, discharge, or acquittance shall not amount to the sum of one hundred pounds, or any sum not exceeding twenty pounds in case such sum shall amount to one hundred pounds or upwards.

Stamp paper for receipt may be supplied by debtor.

28. It shall be lawful for any person or any agent of any person from whom any sum of money shall be due or payable, or claimed to be due or payable, and who shall have paid such sum of money, to provide paper or other material duly stamped, and to demand and require of the person entitled to such sum of money, or any agent to whom the same shall have been paid, a receipt, discharge, or acquittance for such sum of money, and also the amount of the duty thereon as aforesaid; and if any person to whom any sum of money shall have been paid as aforesaid shall refuse to give such receipt, discharge, or acquittance upon demand thereof, or pay the amount of the duty as aforesaid, every such person shall forfeit and pay for every such offence the sum of five pounds.

When bills, drafts, or orders

29. In any case where it shall be fully and clearly made to appear to the satisfaction of the Commissioner of Stamps that any

bill of exchange, draft, cheque, or order, or any promissory note, or any receipt given upon the payment of money, hath been written or printed on unstamped paper or other material, or on paper or other material not duly stamped with the stamp of the value by law required, from urgent necessity or unavoidable circumstances, and without any intention of the parties thereof to evade the stamp duties imposed by law, and such bill, draft, cheque, order, note, or receipt shall not have been accepted or paid, and shall be brought to the Commissioner of Stamps to be stamped within fourteen days from the date thereof, it shall be lawful for such Commissioner of Stamps, on payment of the duty by law payable for such paper or other material in respect of the instrument written or printed thereon, and a further sum of five shillings, to cause the said bill, draft, cheque, order, note, or receipt to be duly stamped; and every such instrument so stamped as aforesaid shall have the like force and validity in law as if the paper or other material so stamped had been duly stamped before such bill, draft, cheque or order, note or receipt, had been written or printed thereon.

may be stamped after they have been given.

Consideration and Value in Deeds and Instruments.

30. In all cases of the sale or gift of any property, moveable or immoveable, where a duty is imposed on any instrument in proportion to the amount (in case of sale) of the purchase or consideration money therein or thereupon expressed, or (in case of gift) the actual value of such property, the full purchase or consideration money which shall be directly or indirectly paid or secured or agreed to be paid for the same, or the actual value of the property in the said cases of sale and gift respectively, shall be truly expressed and set forth in words at length in or upon the instrument whereby the property shall be conveyed, transferred, secured, or gifted; and if in any of the said cases the full purchase or consideration money, or the actual value of the property in the said cases of sale and gift respectively, shall not be truly expressed and set forth, or if the true transaction between the parties be in any way concealed or misrepresented in order to evade the stamp duties, the purchaser and also the seller, the donee and also the donor, shall each forfeit any sum not exceeding fifty pounds, and shall also be charged and chargeable with, and be each holden liable to, the payment of five times the amount of the excess of duty which would have been payable for such instrument as aforesaid in respect of the full purchase or consideration money or actual value, in case the same had been truly expressed and set forth in or upon the same pursuant to the directions of this section, beyond the amount of the duty actually paid for the same, which quintuple duty shall be deemed and taken to be a debt to Her Majesty, her heirs and successors, of the party or parties respectively hereby made liable to pay the same, and shall and may be sued for and recovered accordingly.

Consideration and value to be truly set forth in instruments.

31. Provided that if any or either of the said parties shall give information to the Commissioner of Stamps or to any Government

Parties informing to be indemnified.

Agent or Assistant Government Agent, or to any justice of the peace, whereby such penalty or quintuple duty or any part thereof shall be recovered from any other party or parties liable thereto, the party giving the information shall not only be indemnified and discharged of such his liability, but shall also be rewarded out of the penalty or quintuple duty recovered to such extent as the Governor shall think proper, but not exceeding one half of the amount received and realized.

Purchaser may recover back so much of the consideration as is not stated.

32. And where the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, the purchaser, or his heirs, executors, or administrators, may recover back from the seller, or his heirs, executors, or administrators, so much of such part of the purchase or consideration money as shall not be expressed and set forth as aforesaid, or the whole thereof, if no part of the same shall be so expressed and set forth.

Penalties on notaries and others for not inserting the true consideration.

33. And if any notary or other persons who shall be employed in or about the preparing of any such instrument in or upon which the full purchase or consideration money or value is hereby required to be truly expressed and set forth as aforesaid, or who shall be employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon any such instrument any other than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same in case of sale, or the actual value of the same in case of gift, or shall in anywise aid or assist in the doing thereof respectively, every such notary or other person so offending shall forfeit for every such offence one hundred pounds.

No penalty if there be no evasion of duty.

34. Provided that no person shall be liable to any such penalty, liability, or forfeiture, unless the duty actually paid shall be less than would have been payable for the same in case the full purchase or consideration money or value had been truly expressed.

Probates and Letters of Administration.

Duty on probates how ascertained.

35. No court in this Island shall grant probate or letters of administration of the property and estate of any deceased person without first requiring and receiving from the person or persons applying for the same, or from some other competent person or persons, an affidavit that the moveable and immoveable property and estate of the deceased in this Island for or in respect of which probate or letters of administration are to be granted, exclusive of what the deceased shall have been possessed of or entitled to as a trustee, and not beneficially, and without deducting anything on account of the debts due and owing from the deceased (excepting debts due on mortgage or on notarial bonds), are of the value of a certain sum to be therein specified, to the best of the deponent's knowledge, information, and belief, in order that the proper and full stamp duty may be paid by the person to whom such probate or letters of administration shall be granted.

36. When any person shall have estimated the property and estate of the deceased to be of greater value than the same shall afterwards prove to be, and shall in consequence have paid too high stamp duty on any such probate or letters of administration, if such person shall, within six months after the true value of the property and estate shall have been ascertained, produce any such instrument to the court which granted the same, and it shall be proved to the satisfaction of such court that a greater stamp duty has been paid than the law required, it shall be lawful for the judge of such court to write upon any such instrument the amount of stamp duty which was legally payable thereon, and upon production thereof at the Stamp Office it shall be lawful for the Commissioner of Stamps to cancel and expunge the stamp, and another stamp for denoting the duty which ought to have been paid thereon shall be substituted, and the said commissioner shall thereupon repay the difference between them in money to the party producing such instrument.

Proceedings if too great stamp duty has been paid on probate.

37. When too little stamp duty shall have been paid on any such probate or letters of administration in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the property and estate belonged to the deceased, it shall be lawful for the judge of the court by which such instrument was granted, if the application to have the proper stamp affixed shall be made within six months after the true value of the property and estate shall be ascertained, to transmit such instrument to the Stamp Office in order that the proper stamp may be affixed, without requiring the applicant to pay the penalty payable under the provisions of this or any former Ordinance for stamping deeds or other instruments which have not been stamped or which have been insufficiently stamped; and the Commissioner of Stamps shall thereupon, and upon receipt of the money to be paid thereon, or upon the said money being transmitted to him by some Government Agent or Assistant Government Agent, cause the proper stamp to be affixed on such instrument, and return the same to the judge by whom it was transmitted to him.

Proceedings if too little stamp duty has been paid.

38. Where proof on oath is made to the satisfaction of the commissioner that any will has, owing to inadvertence or mistake, or any other cause, been proved, or that any letters of administration have been taken out on the same property in more than one court in the Colony, or more than once in any such court, or that letters of administration have been taken in such court in ignorance of the existence of a will requiring probate thereof, and that by reason thereof more than one stamp duty has been paid thereupon, the commissioner may, upon delivery to him of the useless probate or letters of administration to be cancelled, and on production of the valid probate or letters of administration, cancel such useless probate or letters of administration and pay the value thereof.

Stamp duty to be allowed where will or letters proved and duty paid more than once.

39. Where too little duty shall have been paid, as in the 37th section mentioned, if any executor or administrator acting under such probate or letters of administration shall not within six

Penalty for not getting proper stamp affixed to probate.

months after the discovery of the mistake or misapprehension, or of any property or estate not known at the time to have belonged to the deceased, apply to the proper court for the purpose of having the proper stamp affixed, he shall, in addition to the payment of the penalty imposed by the 41st section of this Ordinance on the stamping of any unstamped or insufficiently stamped instrument, incur and be liable to a further penalty of twenty pounds; and the judge of the said court shall not transmit such instrument to the Stamp Office to have the proper stamp affixed until the said several penalties have been paid into court, nor shall the Commissioner of Stamps cause the proper stamp to be affixed thereon unless a certificate shall be produced to him under the hand of such judge that the said penalties have been paid; but upon the production of such certificate, and upon receipt of the stamp duty to be paid on such probate or letters of administration, or upon the transmission to him by some Government Agent or Assistant Government Agent of the stamp duty to be paid thereon, the Commissioner of Stamps shall cause the proper stamp to be affixed on such instrument, and return the same to the judge by whom it was transmitted to him.

Duty may be returned on account of debts if claimed within three years.

40. Provided that where it shall be proved by oath or proper vouchers to the satisfaction of the Commissioner of Stamps that an executor has paid debts of whatever nature due and owing from the deceased, other than the debts deducted from the estate under the 35th section of this Ordinance, such debts so paid being payable by law from the estate of the deceased, and amounting to such a sum as being deducted from the value of the estate for or in respect of which the probate duty or duty on letters of administration shall have been assessed shall reduce the duty to a less sum than was actually paid, the commissioner may and he is required to return the difference, provided the same be claimed within three years after the date of the probate or letters of administration or the recording of the inventory; but where by reason of any legal proceeding the debts shall not have been ascertained and paid, or the effects shall not have been recovered and made available, and in consequence the executor or administrator shall be prevented from claiming such return within three years, the commissioner may allow such further time for making the claim as may appear to him to be reasonable.

Instruments insufficiently stamped may be re-stamped.

Terms and conditions on which instruments may be stamped after the signing thereof.

41. Where any instrument liable by law to any stamp duty shall be written or printed on paper or other material, and shall be signed or executed by any person before such paper or other material shall be duly stamped for denoting the payment of such duty, then and in every such case there shall be due, recovered, and paid to Her Majesty, her heirs and successors, the whole or (as the case may be) the deficiency of the stamp duty payable upon or in respect of such instrument, and in addition thereto, by way of penalty, the sum of ten pounds, for every sheet or piece of paper or other material on which the instrument is

written or printed; and the Commissioner of Stamps is hereby required, upon payment of the said duty or deficiency of duty, and of the said sum herein-before directed to be paid by way of penalty, to cause the said instrument to be duly stamped with a stamp or stamps for denoting the payment of such duty or deficiency of duty: Provided always, that where it shall appear to the Commissioner of Stamps, upon oath or otherwise to his satisfaction, that any instrument hath not been duly stamped previously to being signed or executed by reason of accident, mistake, inadvertency, or urgent necessity, and without any wilful design or intention to defraud Her Majesty, her heirs or successors, of the duty chargeable in respect thereof, or to evade or delay the payment of such duty, then and in every such case, if such instrument shall be brought or sent to the Commissioner of Stamps to be stamped within twelve months after the first signing or executing the same by any person, and the stamp duty chargeable thereon by law shall be paid, it shall be lawful for such Commissioner of Stamps, with the previous sanction and under the authority of the Governor, to remit the whole or any part of the penalty payable on stamping such instrument, and to cause such instrument to be duly stamped upon payment of the whole, or, as the case may be, the deficiency of the stamp duty chargeable thereon by law, and either with or without any portion of the said penalty: Provided also, that nothing herein contained shall extend or be deemed or construed to extend to any deed or instrument for the stamping of which after the signing or execution thereof provision is specially made, or to any deed or instrument the stamping of which after the signing or execution thereof is expressly prohibited or restricted by any such law as aforesaid, or to repeal, alter, or affect any such provision, prohibition, or restriction.

Commissioner of Stamps may remit penalty on stamping certain instruments within twelve months after the signing thereof.

Not to extend to instruments for the stamping of which after the signing thereof special provision is made, or to cases where the stamping is prohibited by law.

42. Provided always, that it shall be lawful for the Commissioner of Stamps to cause to be duly stamped any instrument which shall have been or shall or may be signed or executed by any party thereto, at any place out of this Colony upon payment of the proper stamp duty payable thereon, and without payment of any additional duty or penalty, provided such instrument shall be brought to the Commissioner of Stamps to be stamped as aforesaid within the space of two months from the time when the same shall have been received in this Colony, and provided proof shall be first made to the satisfaction of the said commissioner of the facts aforesaid.

Commissioner may stamp instruments executed abroad without any penalty, on their being brought for that purpose within two months after their arrival in this Colony.

43. Where in any case it shall be inconvenient to any person to take or send any instrument to the Commissioner of Stamps to be stamped under any of the provisions of this Ordinance, or to remit to such commissioner the amount of the stamp duty and of any penalty to which he may be liable, it shall be lawful for any such person to bring or send the said instrument to the nearest Government Agent or Assistant Government Agent, and to pay to him the amount of such duty and penalty; and the said Government Agent or Assistant Government Agent shall thereupon transmit such instrument, together with such sum or sums of money, to the Commissioner of Stamps, who shall thereupon cause the said

Instrument may be sent to the Government Agent to be stamped.

instrument to be stamped with the proper stamp, and the same shall thereafter be returned by such commissioner to the said Government Agent or Assistant Government Agent, to be delivered to the party from whom the same was received.

Stamping of Documents tendered as Evidence.

Provision for stamping documents at the trial.

44. Upon the production as evidence at the trial of any cause of any document liable to stamp duty which is unstamped or not sufficiently stamped, the officer of the court whose duty it is to read such document shall call the attention of the judge to any omission or insufficiency of the stamp if the same has not been already noticed by the judge; and the document, if unstamped or not sufficiently stamped, shall not (except as hereinafter provided) be received in evidence until the whole or (as the case may be) the deficiency of the stamp duty and the penalty required by this Ordinance, together with the additional penalty of ten shillings, shall have been paid into court.

On payment into court of duty and penalty document to be received in evidence.

45. Upon payment into court of the whole or (as the case may be) of the deficiency of the stamp duty payable upon or in respect of such document, and of the penalty required by this Ordinance, and of the additional penalty of ten shillings, the proper officer of the court shall give a receipt for the amount of the duty or deficiency which the judge shall determine to be payable, and also of the penalty, and thereupon such document shall be admissible in evidence, saving all just exceptions on other grounds; and an entry of the fact of such payment, and of the amount thereof, shall be made in the record of such cause; and a return shall be made by the court at the end of every month to the Commissioner of Stamps of the monies, if any, so paid into court by way of duty or penalty, distinguishing between such monies and stating the number of the cause and the names of the parties thereto and from whom such monies were received, and the date, if any, and description of the document, for the purpose of identifying the same; and the said commissioner shall, upon request and upon production of the receipt herein-before mentioned, cause such document to be stamped with the proper stamp: Provided that the aforesaid enactment shall not extend to any document which cannot be stamped after the execution thereof.

Proviso.

In certain cases judge may allow time to party to pay duty and penalties.

46. Provided always, that it shall be lawful for the judge in his discretion to allow a party tendering any unstamped or insufficiently stamped document in evidence (if such document may be stamped after the execution thereof on payment of the duty and a penalty) in any case in which it shall appear to the judge that such party was previously ignorant of the objection to the reception in evidence of the document on the ground that the same is not stamped or not sufficiently stamped, and that such party is unable forthwith to pay into court the amount of the duty or deficiency of duty and the penalties aforesaid, such time, not exceeding seven days, as the judge shall deem reasonable for the payment into court of such duty or deficiency of duty and penalties as aforesaid, on the undertaking of the party to pay the same at the

appointed time; and thereupon the court shall allow the trial of the cause to proceed and such document to be put in evidence, saving all just exceptions on other grounds, but shall suspend the judgment therein for the time allowed for making such payment; and if payment is then made the receipt mentioned in the preceding section shall be given, and such further proceedings had as are therein specified; but if such payment be not then made the court shall strike out the evidence relating to such document and give judgment in the cause irrespective of such document, and shall cause the amount which such party has undertaken to pay into court as aforesaid to be forthwith levied by process of parate execution against his property and person, such process to be free of stamp duty.

Proceedings thereupon.

Removal of Doubts as to the sufficiency of Stamps.

47. Any party to an instrument, other than the probate of a will or letters of administration, desirous to remove doubts as to whether such instrument is liable to stamp duty, or if liable, to what extent, may before or after the execution of such instrument, and whether the same be previously stamped or not, apply in writing to the Commissioner of Stamps to declare his opinion thereon. It shall then be lawful for the commissioner and he is hereby required to declare in writing whether the instrument be liable to stamp duty or not, and if liable to assess the duty, and in the case of an instrument insufficiently stamped the amount of the penalty to which such party is liable.

Party desirous to remove doubts may apply to commissioner to declare the duty to which any instrument is liable.

48. If the party making the application shall be dissatisfied with the determination of the commissioner, he may appeal against the same to the Supreme Court within ten days after the same shall be made known to him; and upon the application of the said party (due notice thereof being given to the Queen's Advocate, to the end that he may be heard on behalf of Her Majesty), it shall be lawful for the said court and it is hereby required to hear and determine the said appeal, and the decision of the Supreme Court shall be final; the said court shall make such order as to costs as it shall deem just.

Appeal to Supreme Court.

49. If there be no appeal from the determination of the Commissioner of Stamps, or if an appeal be taken and the same be adjudicated upon, the party may tender to the Commissioner of Stamps the sum of ten shillings, and the amount, if any, of the duty and penalty which he is liable to pay in respect of the instrument, credit being given him for the stamp, if any, already impressed upon such instrument; upon receiving the same the Commissioner of Stamps may and he is hereby required to stamp the instrument with a particular stamp to be provided for that purpose, with such device or symbol thereon as shall be thought proper, and the words "stamp duty finally settled," in addition to the stamp, if any, to which the instrument is declared liable; it shall be the duty of such party to exhibit the instrument so stamped to the secretary of the district court in which the duplicates of such instruments are filed, in order that a record of the

Particular stamp may be impressed which will remove all doubts.

fact may by such secretary be endorsed on the duplicates; every such instrument so impressed as aforesaid shall be deemed to have been duly stamped, and shall be receivable as evidence in all courts, notwithstanding any objection made to the same as being insufficiently stamped.

Commissioner before assessing the duty upon any deed may require proof that the facts upon which the duty depends are truly stated.

50. In any case where application is made to the Commissioner of Stamps as aforesaid, it shall be lawful for him to require such evidence by affidavit as he may deem necessary in order to show to his satisfaction whether or not the consideration or value, or any other matter or thing upon the full and proper statement of which the stamp duty payable thereon shall in any measure depend, is truly and fully set forth therein; the commissioner may also, when necessary, direct an appraisement of property to be made to ascertain its value and determine the amount to be paid for the appraisement by the party in respect of whose application such appraisement is deemed necessary; the said commissioner may in any case refuse to cause to be impressed on any such deed or instrument, or on any duplicate respectively, such particular stamp, except on payment of the full stamp duty which would be chargeable on such deed or instrument if all or any of such matters and things aforesaid had been truly set forth therein.

The affidavit not to be used for any other purpose.

51. Provided that no such affidavit shall be used against any person making the same in any proceeding whatever, except only in any inquiry as to the stamp duty with which such deed or instrument is chargeable; and every such person shall, upon payment of such full stamp duty as aforesaid, be relieved from any penalty, forfeiture, or liability he may have incurred by reason of the omission to state truly in such deed or instrument any of the facts, matters, and things aforesaid.

Licensed Dealers in Stamps.

Commissioner of Stamps may license persons to deal in stamps.

Persons licensed to enter into bond.

Condition thereof.

52. It shall be lawful for the Commissioner of Stamps, with the sanction of the Governor, to grant licenses in writing, free of expense, to all persons applying for the same whom he in his discretion shall think fit and proper for the purpose, to vend and deal in stamps at any place or places in this Island to be named in such license: Provided that every person to whom any such license shall be granted shall enter into a bond to Her Majesty, her heirs and successors, in a penal sum of one hundred pounds, conditioned that such licensed person shall not sell or offer for sale or exchange, or keep or have in his possession for the purpose of sale or exchange, any stamp or stamps other than such as he shall have purchased or procured at the office for stamps in Colombo or from some Government officer specially authorized for that purpose, or from some person licensed to deal in stamps, under the authority of this Ordinance; and it shall be lawful for the said Commissioner of Stamps, whenever he shall think fit, by notice in writing, signed by him, to revoke and make void any such license as aforesaid.

License may be revoked.

53. In every license to vend or deal in stamps, there shall be truly specified the proper name and place of abode of the person to whom the same shall be granted, and a true description of the house or shop or houses and shops in or at which he shall by such license be authorized to vend or deal in stamps; and such person shall not be thereby authorized or entitled to vend or deal in stamps in or at any other house, shop, or place than such as shall be so specified and described in such license.

Particulars to be specified in licenses.

54. No person other than such Commissioner of Stamps or Government officer as aforesaid shall vend or deal in stamps in any part of this Island without having duly obtained from the Commissioner of Stamps a license for that purpose which shall be in force and unrevoked at the time of such vending or dealing; and if any person other than such commissioner or Government officer as aforesaid shall sell or offer for sale any paper or other material stamped with any stamp denoting or purporting to denote any stamp duty, or shall exchange any such stamped paper or other material for any other stamped paper or other material, or for any other article or thing, without having duly obtained and having in force such license as aforesaid authorizing him in that behalf, or in or at any house, shop, or place not specified and described in any such license as aforesaid granted to him, he shall for every such offence forfeit the sum of five pounds.

No person to deal in stamps without such licenses.

55. Provided that it shall be lawful for any person employed to prepare or write any instrument liable to stamp duty to charge his employer with the amount of the stamp or stamps impressed on the paper or other material upon which such instrument shall be written, without having obtained any such license as aforesaid to vend or deal in stamps.

As to persons employed to write instruments liable to stamp duty.

56. Every person authorized to vend or deal in stamps shall be bound and required, on the sale of any stamped paper or other material, and before delivery thereof to the purchaser, to mark the paper or other material whereon the stamp is impressed (on or as near to the impression of such stamp as is convenient) with the name or the initial letters of the name of such stamp vendor, and with the date of sale; but nothing herein contained shall be deemed to apply to adhesive stamps.

Stamp vendors to mark stamped paper sold by them.

57. A discount after the rate of five pounds per centum on the prompt payment of any sum amounting to twenty pounds or upwards, and (in any case in which the Governor shall in his discretion think fit to authorize the same) a discount after the rate of two pounds and ten shillings per centum on the prompt payment of any sum amounting to ten pounds and under twenty pounds by any person licensed to vend or deal in stamps, on the purchase by him of any stamped paper or other material at the Stamp Office in Colombo, or from any Government Agent or Assistant Government Agent, or any Government officer authorized as aforesaid, shall be allowed to such licensed dealer.

Discount allowed to licensed dealers in stamps.

58. Every person who shall be licensed under the authority of this Ordinance to deal in stamps shall cause to be painted in capital letters one inch at least in height and of a proper and proportionate breadth, on some conspicuous place on the outside of the

Licensed dealers in stamps to paint their names, &c. in front of their houses or shops.

front of the house or shop in or at which he shall be licensed to deal in stamps, and so that the same shall be at all times plainly and distinctly visible and legible, the proper name of such licensed person at full length, together with the words "licensed to deal in stamps," and words of similar import in the Singhalese and Tamil languages, and such person shall continue such names and words so painted during all the time that he shall continue licensed; and if any person so licensed shall neglect or omit to continue the same so painted he shall forfeit ten pounds for every such offence: Provided that in the case of several persons licensed as aforesaid in copartnership it shall be sufficient if the name of one only of such persons or of the firm be painted in manner aforesaid.

Penalty.

Proviso as to partners.

Penalty on unlicensed persons painting on their shops any words importing that they are dealers in stamps.

59. If any person shall write, paint, or mark, or shall cause or procure to be written, painted, or marked, or shall permit or suffer to continue written, painted, or marked, upon any part of his house, shop, or premises, either in the inside or on the outside thereof, or upon any board, or any material whatever exposed to public view, and whether the same shall or shall not be so affixed to such house, shop, or premises, any word or words which shall import or signify, or be intended to import or signify, that such person is a vendor of or dealer in stamps, such person not being licensed to deal in stamps, and not being the Commissioner of Stamps or Government officer as aforesaid, he shall forfeit ten pounds for every day such offence shall be committed or continued.

Allowance to be made for stamps in the possession of licensed vendors dying, or becoming bankrupt or insolvent, or whose licenses are revoked.

60. If any person licensed to vend or deal in stamps shall die, or become bankrupt or insolvent, or if the license of any person to vend or deal in stamps shall expire or be revoked, and any such person at the time of his death, bankruptcy, or insolvency, or at the expiration or revocation of any such license, shall have in his possession any quantity of stamped paper, it shall be lawful for such person, or his executor or administrator or assignee, within three calendar months after the expiration or revocation of such license, or next after death, bankruptcy, or insolvency, as the case may be, to bring or send such stamped paper to the office for stamps in Colombo; and it shall be lawful for the Commissioner of Stamps to receive the same and to pay to the person bringing or sending the same the amount of the stamp duty thereon, deducting therefrom such per-centage as is allowed by this Ordinance on the purchase of stamps of the like description from the said commissioner: Provided that the person who shall bring or send such stamped paper or other material to the said office shall make proof to the satisfaction of such commissioner that such paper was actually in the possession of such person so dying, or becoming bankrupt or insolvent, or having had such license which had so expired or had been so revoked for the purpose of sale at the time when such person so died, or became bankrupt or insolvent, or when the said license expired or was revoked; and shall also make proof in like manner that such stamped paper or other material, or the stamps impressed thereon, was or were purchased or procured by the person to whom such license shall have been granted at the head

office for stamps in Colombo, or from some Government officer or person licensed to deal in stamps as aforesaid.

Commissioner of Stamps empowered to grant warrants to search and inspect the stocks of stamps of licensed dealers.

61. Upon information given to the Commissioner of Stamps, upon the oath of one or more credible person or persons, that there is reasonable cause to suspect that any person licensed or who shall have been licensed under the authority of this Ordinance hath in his possession any forged or counterfeit stamp or stamps, it shall be lawful for the said commissioner, by warrant under his hand, to authorize any officer or officers employed in the Stamp Office, and such officer or officers is and are hereby fully authorized accordingly, with the assistance, if required, of any constable or other peace officer, to enter, between the hours of six in the morning and six in the evening, into the dwelling house, room, shop, warehouse, outhouse, or other building of or belonging to any person licensed or who at any time within six months then last past shall have been licensed as aforesaid to vend or deal in stamps ; and if, on demand of admittance and notice of such warrant, the door of any such dwelling house, room, shop, warehouse, outhouse, or other building, or any inner door thereof, shall not be opened, then to break open the same respectively, and to search for and to seize and to take into his and their possession all such stamped paper or other material as shall be in any such place as aforesaid, or elsewhere in the custody or possession of such person licensed, or having been licensed as aforesaid ; and all constables and other peace officers are hereby required, upon the request of any person or persons acting under such warrant, to aid and assist him or them in the execution thereof; and if any constable or other peace officer shall, upon any such request as aforesaid, refuse or neglect to be aiding and assisting in the execution of any such warrant as aforesaid, or if any person shall refuse to permit any such search or seizure as aforesaid to be made, or shall assault, oppose, molest, or obstruct any person employed or acting in the execution or under the authority of any such warrant, or aiding or assisting in the execution thereof, every such constable, peace officer, or other person so offending in any of the cases aforesaid shall forfeit a sum not exceeding twenty pounds.

Power of entry.

Penalty for refusing to aid, &c. in the execution of such warrants, or assaulting persons employed in the execution thereof.

Acknowledgment to be given for stamps seized.

Licensed vendors entitled to be paid the amount of genuine stamps seized, or to have them returned to them.

62. Provided that any person who shall execute any such warrant shall, if required, give to the person in whose custody or possession any stamps shall be found and seized an acknowledgment of the number, particulars, and amount of the stamps so seized, and shall permit such last-mentioned person, or any person employed by him, to mark the same before the removal thereof; and if the person in whose custody or possession any stamps shall be so found and seized shall be, or shall have been within the time aforesaid, a licensed vendor of stamps, he shall be entitled to claim and receive in money from the Commissioner of Stamps the amount of such of the stamps so seized as shall be found to be genuine (deducting therefrom such per-centage as is allowed on the purchase of stamps of the like description); or if the said Commissioner shall think fit, such of the stamps so seized as shall be found to be genuine shall be returned to the person from whose custody or possession the same shall have been taken, with such reasonable amends as

the Governor, with the advice of the Executive Council, may think fit to award.

Other Penal Provisions.

Punishment for fraudulently affixing stamps, or erasing names, dates, &c.

63. If any person shall fraudulently use, join, fix, or place for, with, or upon any paper or other material any stamp which shall have been cut, torn, or removed from any other paper or other material, or if any person shall fraudulently erase, cut, scrape, discharge, or get out of or from any stamped paper or other material any name, sum, date, or other matter or thing therein written, printed, or expressed, with intent to use any stamp then impressed or being upon such paper or other material, or that the same may be used for any instrument whatever in respect whereof any stamp duty is or shall or may be or become payable, then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be liable to transportation for any term not less than seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years.

Penalty on persons hawking stamps.

64. If any person, whether he shall be licensed to vend or deal in stamps or not, shall hawk or carry about for sale or exchange any stamped paper or other material, or if any person shall utter or offer for sale or exchange at any house, shop, or place other than the house or shop in which he shall reside or *bonâ fide* carry on his trade or business, any such stamped paper or other material, every such person shall forfeit the sum of five pounds over and above any penalty to which he may be liable for vending or dealing in stamps without being licensed so to do; and it shall, moreover, be lawful for any person, without any other warrant than this Ordinance for that purpose, to apprehend any person so hawking, carrying about, uttering, or offering for sale or exchange such stamped paper or other material, and to take him or cause him to be taken before any police magistrate having jurisdiction where the offence shall be committed, who shall hear and determine the matter; and if the offender shall not immediately on his conviction pay the penalty, such magistrate shall commit him to prison for any period of time not less than one or more than three months, unless such penalty shall be sooner paid or satisfied; and all stamped paper or other material which shall be found in possession of such offender shall be forfeited to Her Majesty and shall be taken possession of by such magistrate, and be delivered over to the Commissioner of Stamps, to be disposed of in any manner he shall think fit: Provided that if such offender shall not be apprehended and proceeded against in the manner herein-before directed, then the said penalty of five pounds shall be recoverable by any other of the ways and means provided for the recovery of penalties in this Island.

Hawkers of stamps may be apprehended, and taken before police magistrate.

Penalty for perjury.

65. If any person making any such affidavit as is directed or required by this Ordinance shall knowingly and wilfully make a false oath of or concerning any of the matters to be therein speci-

fied and set forth, and be thereof lawfully convicted, he shall be subject and liable to such pains and penalties as by any law now or hereafter in force persons convicted of wilful and corrupt perjury are subject and liable to.

Forging die, &c.

66. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any die or other instrument, or any part thereof which has been or shall or may be provided, made, or used by or under the direction of the Governor, or by or under the direction of any other person legally authorized in that behalf, for the purpose of expressing or denoting any duty, or any part thereof, which shall be under the care and management of the Commissioner of Stamps, or for the purpose of denoting or testifying the payment of any such duty or any part thereof; or shall forge, counterfeit, or imitate, or cause or procure to be forged, counterfeited, or imitated, the stamp, mark, or impression, or any part of the stamp, mark, or impression of any such die or other instrument as aforesaid, upon any paper or other material whatever, or the name or initial letters of the name of the said commissioner, or of any person authorized to vend or deal in stamps, upon any stamped paper or other material whatever; or shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any false, forged, or counterfeit die or other instrument, or part of any such die or other instrument, resembling or intended to resemble, either wholly or in part, any die or other instrument which hath been or shall or may be so provided, made, or used as aforesaid; or shall stamp or mark, or cause or procure to be stamped or marked, any paper or other material with any such false, forged, or counterfeit die or other instrument, or part of any such die or other instrument as aforesaid; or shall use, utter, sell, or expose to sale, or shall cause or procure to be used, uttered, sold, or exposed to sale, or shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any paper or other material having thereon the impression or any part of the impression of any such false, forged, or counterfeit die or other instrument, or part of any such die or other instrument as aforesaid, or having thereon any false, forged, or counterfeit stamp, mark, impression, or writing, resembling or representing, either wholly or in part, or intended or liable to pass or be mistaken for the stamp, mark, or impression of any such die or other instrument as aforesaid, or for the name or the initial letters of the name of such Commissioner, or of any person authorized to vend or deal in stamps, knowing such false, forged, or counterfeit stamp, mark, impression, or writing to be false, forged, or counterfeit; or if any person shall, with intent to defraud Her Majesty, her heirs or successors, privately or fraudulently use, or cause or procure to be privately or fraudulently used, any die or other instrument so provided, made, or used, or hereafter to be provided, made, or used as aforesaid, or shall with such intent privately or fraudulently stamp or mark, or cause or procure to be stamped or marked, any paper or other material whatever with any such die or other instrument as last aforesaid; or if any person shall knowingly and without lawful

Forging the stamp of die, &c. or the name or initials of the commissioner or any stamp vendor.

Having in possession a forged die, &c.

Stamping with a forged die, &c.

Using, selling, or having in possession paper with the impression of a forged die, &c.

Or with a forged stamp or name.

Fraudulently using a genuine die.

Having in possession paper fraudulently stamped. Punishment.

excuse (the proof whereof shall lie on the person accused) have in his possession any paper or other material so privately or fraudulently stamped or marked as aforesaid; then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be liable, at the discretion of the court, to be transported for life or for any term not less than seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years, nor less than two years, as the court shall award.

All persons receiving monies for stamp duties and misappropriating the same to be liable for the amount to the Crown, and the district court to enforce payment thereof.

67. If any person shall have received into his hands, or shall receive into his hands, any sum of money as and for the stamp duty upon or in respect of any deed, instrument, or transaction, or intended deed, instrument, or transaction, and shall improperly neglect or omit to appropriate such sum of money to the due payment of such duty, or shall otherwise by or under any means or pretence whatsoever improperly withhold or detain the same, every such person shall be accountable for the amount of such duty or sum of money, and the same shall be a debt from such person to Her Majesty, her heirs and successors, and recoverable as such accordingly; and it shall be lawful for the district court within the jurisdiction of which such person, or his executor or administrator, resides, upon the application of the Queen's Advocate, and upon such affidavit as to such court may appear sufficient, to grant a rule requiring such person, or his executor or administrator, to show cause why he should not deliver to the Commissioner of Stamps an account, upon oath, of all such duties and sums of money as aforesaid, and why the same should not be forthwith paid to the said Commissioner of Stamps, or to the Government Agent or some Assistant Government Agent of the province in which such person is resident; and it shall be lawful for such court to examine any such person in reference to such account, if such court shall think proper so to do, and to make absolute any such rule as aforesaid, in every case in which the same may appear to such court to be proper and necessary, and to enforce by attachment or otherwise the payment of any such duties or sums of money as on such proceedings shall appear to such court to be due, together with the costs of all such proceedings.

Miscellaneous.

Spoiled stamps, allowance for.

68. All persons who shall have in their possession any stamped paper or other material written upon, and inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before the same is executed, and which shall not have been used for any other purpose, or which shall have been used for any instrument not fully written or not signed by any party, or any stamped bills of exchange or promissory notes which have been signed on behalf of the drawers, but which have not been delivered out of their hands to the payees therein named, or any person on their behalf, or been deposited with any

person as a security, or been in any way negotiated, and which bills of exchange have not been accepted or tendered for acceptance, may, within two months after the date of such instrument, or after the writing or signing of the same if it bears no date, bring or send such stamped paper or other material, bill of exchange, or promissory note to the Stamp Office in Colombo, and if it shall appear to the Commissioner of Stamps, upon inspection of the document, that the stamp whereon the same has been wholly or partially written has been spoiled or rendered useless before the same was executed or signed, or before any such bill of exchange or promissory note was made use of in any such manner as aforesaid, and if all such grounds of relief as are herein-before mentioned are likewise fully proved by affidavit to the satisfaction of such Commissioner of Stamps, then and in any such case it shall be lawful for the said Commissioner of Stamps to receive back such spoiled stamps and to cancel the same, and to give other stamps of the like amount and description in lieu thereof.

Commissioner authorized to refund in money the amount of stamps spoiled or rendered useless.

69. In any case in which the Commissioner of Stamps is authorized and directed to cancel stamps spoiled or rendered useless or unfit for the purpose intended, and to make allowance for the same by giving other stamps in lieu thereof, it shall be lawful for the said commissioner, with the previous sanction and under the authority of the Governor, instead of giving stamps, to refund and repay to the party entitled to such allowance the amount thereof in money, deducting therefrom such per-centage as is allowed by this Ordinance on the purchase of stamps of the same description as those in respect of which such allowance shall be made ; and it shall also be lawful for the said commissioner, with the like sanction and authority, to refund and repay to any person possessing any stamp or stamps which shall not have been spoiled or rendered useless or unfit for the purpose intended, but for which he shall have no immediate use or occasion, the amount or value of such stamp or stamps in money, deducting therefrom such per-centage as aforesaid, upon his delivering up such stamp or stamps to the said commissioner to be cancelled, and proving to his satisfaction that the same was or were purchased by him with a *bonâ fide* intent to use the same, and that he has paid the full amount or value described by such stamp or stamps without any deduction, save and except only the amount of such per-centage as aforesaid ; and further, that such stamp or stamps was or were so purchased within the period of three months next preceding; and if the same was or were so purchased after the passing of this Ordinance, then that the same was or were so purchased by such person at the office for stamps in Colombo, or from some Government officer specially authorized for that purpose, or from some person licensed under the authority of this Ordinance to vend or deal in stamps.

Parate execution to issue to recover stamps advanced to paupers who have succeeded in the suit.

70. Whenever it shall be made to appear to any district court, on the report of the secretary of such court, that any party to whom stamps have at any time heretofore been advanced for the purpose of enabling him to prosecute or to defend or to intervene in any suit *in formâ pauperis*, and who has recovered judgment in such suit for his costs, has nevertheless failed either to repay

the amount due for the stamps so advanced to him, or to take the necessary steps under his judgment for the recovery thereof from the losing party, it shall be lawful for such court to issue an order to the party to whom such stamps were advanced, calling upon him, within one month after service of such order, to pay into court the amount due by him on account of such stamps, and in default of payment to cause the amount so due to be levied by process of parate execution against the property and person of the party to whom such stamps were advanced, such process to be free of stamp duty.

Also where the suit has not been duly prosecuted.

71. The like proceedings shall be had in any case in which a party who has obtained leave to sue *in formâ pauperis*, and to whom stamps have been advanced for the purpose of such suit, has not either repaid the amount due for the same, or duly prosecuted such suit to judgment within a reasonable time.

Informer's share of fines.

72. It shall be lawful for the court to decree any portion of fine actually recovered and realized under the provisions of this Ordinance, not exceeding one half, to the informer, if it shall see fit so to do.

SCHEDULE to which this Ordinance refers.

PART I.

Containing the duties on instruments of conveyance, contract, obligation and security for money, on deeds in general, and on other instruments, matters, and things not falling under either of the following heads.

PART II.

Containing the duties on law proceedings, and in the Supreme Court, district courts, and courts of requests respectively.

PART III.

Containing the duties in testamentary proceedings, on probates of wills, and letters of administration.

PART I.

	Duty. £	s.	d.
Affidavit or affirmation not made for the immediate purpose of being filed, read, or used in any court of justice in this Island - - - -	0	2	0

Exemptions from the preceding and all other Stamp Duties.

Affidavits or affirmations required or authorized by law to be made in criminal matters, affidavits or affirmations on the assumption of any office under Government, or for the verification of any public accounts, or to be made pursuant to this Ordinance.

Stamp Duties.

	Duty.		
Agreement or contract, or any minute or memorandum of an agreement, made in this Island (and not otherwise charged nor expressly exempted from all stamp duty), whether the same shall be only evidence of a contract, or obligatory upon the parties, from its being a written instrument, where the matter thereof shall be—	£	s.	d.
Of the value of £1, and not exceeding £5 -	0	0	3
Exceeding - 5 „ „ 10 -	0	0	6
„ 10 „ „ 25 -	0	1	6
„ 25 „ „ 50 -	0	2	6
„ 50 „ „ 100 -	0	4	0
And for every additional 25*l.*, or part thereof, a further progressive duty of - - -	0	1	0
Where the value of the agreement or of such minute or memorandum does not appear on the face thereof, such instrument shall bear a stamp of - - - - -	0	5	0
Provided always, that where divers letters shall be offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any one of such letters shall be stamped with a duty of	0	5	0

Exemptions from the preceding and all other Stamp Duties.

Memorandum or agreement for the hire of any labourer, artificer, manufacturer, or menial servant.

Memorandum, letters, or agreement for or relating to the sale of any goods, wares, or merchandize.

Memorandum, letter, or agreement made with any common carrier or other person, for the carriage of goods, wares, or merchandize in this Island.

Conditions of sale of any property sold by auction.

Letters containing any agreement (not before exempted) in respect of any merchandize or evidence of such an agreement, which shall pass by the post between merchants or other persons carrying on trade or commerce in this Island, and residing and actually being, at the time of sending such letters, at the distance of 20 miles from each other.

Memorandum or agreement made between the master and mariners of any vessel or boat for wages.

Agreement made in compliance with or under the provisions of the Mercantile Shipping Acts.

Agreement to marry not containing any settlement or transfer of property.

Memorandum or agreement made by or with Her Majesty, or any Government officer in the execution of his office.

Stamp Duties.

	Duty.		
	£	s.	d.
Appraisement or valuation of any estate or effects, moveable or immoveable, or of any interest therein, or of the annual value thereof, or of any dilapidations, or of any repairs wanted, or of the materials and labour used or to be used in any buildings, or of any artificers' work whatsoever :			
Where the amount of such appraisement or valuation shall not exceed 25*l.* - - - -	0	1	3
And where it shall exceed £25 and not exceed £50	0	2	6
" " 50 " 100	0	5	0
" " 100 " 200	0	10	0
" " 200 " 500	0	15	0
" " 500 - - -	1	0	0
Exemptions.			
Appraisements or valuations of any property for the purpose of ascertaining the duty payable on probates or letters of administration, or made by or at the instance of any executor or administrator with a view to the distribution of any estate under his charge, or made by or at the instance of any Government officer in the execution of his office, or by or for the savings bank or loan board.			
Articles of clerkship or contract whereby any person shall first become bound to serve as a clerk in order to his admission as an advocate, proctor, notary, or apothecary - - - - - -	10	0	0
Articles of clerkship or contract whereby any person shall become bound to serve as a clerk in order to such admission as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated by consent, or by rule of court, or in any other event - - - -	1	0	0
Assignment. See Transfer or assignment.			
Award - - - - - -	1	0	0
Bill of exchange, promissory note, draft, or order, viz. :			
Draft, cheque, or order for the payment of any sum of money *to the bearer*, or to *order on demand* -	0	0	1
Inland bill of exchange, promissory note, draft, or order for the payment to the bearer, or to order, at any time otherwise than on demand, of any sum of money			
Not exceeding £5 - - -	0	0	1
Exceeding £5 and not exceeding £10 -	0	0	2
" 10 " " 25 -	0	0	3
" 25 " " 50 -	0	0	6
" 50 " " 75 -	0	0	9
" 75 " " 100 -	0	1	0
" 100 " " 200 -	0	2	0
" 200 " " 300 -	0	3	0
" 300 " " 400 -	0	4	0

Stamp Duties.

	Duty. £	s.	d.
Exceeding £400 and not exceeding £500 -	0	5	0
„ 500 „ „ 750 -	0	7	6
„ 750 „ „ 1,000 -	0	10	0
„ 1,000 „ „ 1,500 -	0	15	0
„ 1,500 „ „ 2,000 -	1	0	0
„ 2,000 „ „ 3,000 -	1	10	0
„ 3,000 „ „ 4,000 -	2	0	0
For every additional 1,000*l.* or part of 1,000*l.* of the money thereby made payable - - -	0	10	0

Inland bill, draft, or order for the payment of any sum of money, though not made payable to the bearer or to order, if the same shall be delivered to the payee or some person on his behalf -	*The same duty as on a bill of exchange for the like sum, payable to bearer or order.*
Inland bill, draft, or order for the payment of any sum of money weekly, monthly, or at any other stated periods, if made payable to the bearer or to order, or if delivered to the payee, or some person on his behalf, where the total amount thereby made payable shall be specified therein, or can be ascertained therefrom -	*The same duty as on a bill payable to bearer or order otherwise than on demand, for a sum equal to such total amount.*
And where the total amount of the money thereby made payable shall be indefinite - -	*The same duty as on a bill otherwise than on demand for the sum therein expressed only.*

And the following instruments shall be deemed and taken to be inland bills, drafts, or orders for the payment of money, within the intent and meaning of this schedule, viz. :

All drafts or orders for the payment of any sum of money by a bill or promissory note, or for the delivery of any such bill or note in payment or satisfaction of any sum of money, where such drafts or orders shall require the payment or delivery to be made to the bearer or to order, or shall be delivered to the payee or some person on his behalf.

All receipts given for money received which shall entitle, or be intended to entitle, the person or persons paying the money, or the bearer of such receipts, to receive the like sum from any third person or persons.

And all bills, drafts, or orders for the payment of any sum of money out of any particular fund, which may

or may not be available, or upon any condition or contingency which may or may not be performed or happen, if the same shall be made payable to the bearer or to order, or if the same shall be delivered to the payee or some person on his behalf.

And all documents or writings usually termed letters of credit, or whereby any person to whom any such document or writing is or is intended to be delivered or sent, shall be entitled or be intended to be entitled to have credit with, or in account with, or to draw upon any other person for or to receive from such other person any sum of money therein mentioned.

Exemptions from the Duties on Drafts or Orders.

All drafts or orders drawn by the Treasurer of the Colony or any other Government officer in the execution of his office.

All letters of credit, whether in sets or not, sent by persons in this Colony to persons out of the same, authorizing drafts on the British territories in India or in Ceylon, or any other of Her Majesty's colonies or foreign possessions.

And the following instruments are to be deemed and taken to be promissory notes within the intent and meaning of this schedule :—

All notes promising the payment of any sum or sums of money *out of any particular fund*, which may or not be available, or upon any *condition or contingency* which may or may not be performed or happen, if the same shall be *made payable to the bearer or to order*, and if the same shall be *definite and certain, and not amount* in the whole *to* 20*l.*

Exemptions from the Duties on Promissory Notes.

All notes promising the payment of any sum or sums of money out of any particular fund, which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, where the same shall not be made payable to the bearer or to order, and also where the same shall be made payable to the bearer or to order, if the same shall amount to 20*l.* or be indefinite.

And all other instruments bearing in any degree the form or style of promissory notes, but which in law shall be deemed special agreements, except those hereby expressly directed to be deemed promissory notes.

But such of the notes and instruments here exempted from the duty on promissory notes shall nevertheless be liable to the duty which may attach thereon as agreements or otherwise.

Stamp Duties.

	Duty.		
Foreign bills of exchange drawn in but payable out of this Colony:			
If drawn singly, or otherwise than in a set of three or more, the same duty as on an inland bill of the same amount and tenor.			
If drawn in sets of three or more, for every bill of each set:—	£	s.	d.
Where the sum payable thereby shall not exceed £25 -	0	0	1
And where it shall exceed 25*l.* and not exceed 50 -	0	0	2
" 50 " 75 -	0	0	3
" 75 " 100 -	0	0	4
" 100 " 200 -	0	0	8
" 200 " 300 -	0	1	0
" 300 " 400 -	0	1	4
" 400 " 500 -	0	1	8
" 500 " 750 -	0	2	6
" 750 " 1,000 -	0	3	4
" 1,000 " 1,500 -	0	5	0
" 1,500 " 2,000 -	0	6	8
" 2,000 " 3,000 -	0	10	0
" 3,000 " 4,000 -	0	13	4
Every bill of the set, for every additional 1,000*l.* or part of 1,000*l.* of the money thereby made payable - - - -	0	3	4
Foreign bill of exchange drawn out of this Colony, and payable within this Colony, the same duty as on an inland bill of the same amount and tenor.			
Foreign bill of exchange drawn out of this Colony, and payable out of this Colony, but negotiated within this Colony, the same duty as on a foreign bill drawn within this Colony and payable out of this Colony.			

Exemptions from the preceding and all other Stamp Duties.

All bills of exchange, drafts, or orders drawn by the Treasurer of this Island, or any other Government officer in the execution of his office.			
Bill of lading of or for any goods, merchandize, or effects exported or carried coastwise, for each part of every set - - - -	0	0	6
Bond given as a security for the payment of any definite and certain sum of money; mortgage for any definite and certain sum of money, and of or affecting any property moveable or immoveable, where the sum shall not exceed 5*l.* -	0	0	3
Exceeding £5 and not exceeding £10 -	0	0	6
" 10 " 20 -	0	1	0
" 20 " 30 -	0	1	6
" 30 " 40 -	0	2	0
" 40 " 50 -	0	2	6
" 50 " 75 -	0	3	9
" 75 " 100 -	0	5	0

Stamp Duties.

	Duty. £	s.	d.
And for every additional 100*l.* or part thereof a further progressive duty of - - -	0	5	0
Bond of any kind whatever not otherwise charged in this schedule, nor expressly exempted from all stamp duty - - - -	1	0	0
Exemptions from the preceding and all other Stamp Duties.			
Bonds given by any Government officer or his sureties for the due execution of his office.			
Bonds given by any person to Her Majesty, or to any public officer for the use of Her Majesty, for any debt or sum of money due or to become due to the Crown, or to the Government of this Island.			
Bonds of indemnity given to Fiscals or their deputies, or officers in the execution of their duty.			
Bonds given to any officer of customs in his official capacity.			
Charterparty or any agreement or contract for the charter of any vessel - - - -	1	0	0
Exemptions.			
Charterparty made by or with any Government officer in the execution of his office.			
Composition deed or other instrument of composition between a debtor or debtors and his or their creditors - - - - - -	1	0	0
Conveyance or transfer of immoveable property:			
Where the purchase or consideration money therein or thereupon expressed shall not exceed £5 -	0	0	6
And where the same shall exceed—			
£5 and not exceed £10 - -	0	1	0
10 „ 20 - -	0	2	0
20 „ 30 - -	0	3	0
30 „ 40 - -	0	4	0
40 „ 50 - -	0	5	0
50 „ 75 - -	0	7	6
75 „ 100 - -	0	10	0
And for every additional 25*l.* or part thereof a further progressive duty of - - -	0	2	6
Conveyance or transfer of immoveable property of any kind whatsoever, not charged in this schedule, nor expressly exempted from stamp duty - -	1	0	0
Exemptions from the preceding Stamp Duties.			
All conveyances and transfers to Her Majesty or to any person for or on behalf of Her Majesty.			
All leases and mortgages, and all transfers or assignments thereof.			

Stamp Duties.

	Duty.		
Conveyance or transfer of moveable property where the purchase or consideration money therein or thereupon is expressed, or the value of such property where the purchase or consideration money is not expressed, the same duty as on a bond for the like amount.			
Conveyance or transfer of moveable property of any kind whatsoever, not charged in this schedule nor expressly exempted from stamp duty, where the value of the same does not appear on the face thereof - - - - - -	£ 5	s. 0	d. 0

Exemptions from the preceding and all other Stamp Duties.

Transfers of bills of exchange and promissory notes by indorsement.

Declaration of any use or trust - - -	1	0	0
Deeds or instruments of confirmation, revocation, substitution, surrogation, disclaimer, and renunciation -	1	0	0
Deed or instrument not otherwise charged in this schedule, nor expressly exempted from stamp duty -	1	0	0
Gift, deed of gift of immoveable property, where the value of the property given shall not exceed 5*l.* -	0	0	6
Exceeding £5 and not exceeding £10 -	0	1	0
„ 10 „ 20 -	0	2	0
„ 20 „ 30 -	0	3	0
„ 30 „ 40 -	0	4	0
„ 40 „ 50 -	0	5	0
„ 50 „ 75 -	0	7	6
„ 75 „ 100 -	0	10	0
And for every additional 25*l.* or part thereof a further progressive duty of - - -	0	2	6

Lease of any lands:

Where the rent payable for the whole term comprised in the lease shall not exceed 5*l.* - -	0	0	6
And where the same shall exceed—			
£5 and not exceed £10 - -	0	1	0
10 „ 15 - -	0	1	6
15 „ 20 - -	0	2	0
20 „ 25 - -	0	2	6
25 „ 50 - -	0	5	0
50 „ 75 - -	0	7	6
75 „ 100 - -	0	10	0
And where the same shall exceed 100*l.*, then for every 50*l.* or part thereof - - -	0	5	0

Where the term of years is not defined the duty shall be reckoned as if the lease were for 10 years.

Stamp Duties.

	Duty. £	s.	d.
Letter or power of attorney of any kind - -	0	10	0
Substitution or surrogation under any letter of attorney - - - - -	0	5	0

Exemptions from the preceding Stamp Duties.

Power of attorney made by any petty officer, seaman, or soldier, or by the executors or administrators of any such person, for pay or prize money.

Letters of *Venia Ætatis* - - - -	5	0	0
Licence for marriage without publication of banns -	1	0	0
Mortgage. See Bond.			
Notarial deed not otherwise charged in this schedule, nor expressly exempted from all stamp duty -	0	10	0
Notarial copy of or extract from any instrument, and copy of or extract from any deed registered in any district court certified by the secretary of such court - - - - -	0	1	0
Partition, any deed of - - - -	0	5	0
Promissory note. See Bill of exchange, inland.			
Protest of any bill of exchange or promissory note for any sum of money not exceeding £20 - -	0	2	0
Exceeding £20 and not exceeding £100 -	0	3	0
" 100 " " 500 -	0	5	0
" 500 - - - -	0	10	0
Protest of any other kind - - -	0	5	0
Receipt or discharge given for or upon the payment of money amounting to 2*l.* or upwards - -	0	0	1

Exemptions.

Receipts given for money deposited in any bank or in the hands of any banker, to be accounted for, whether with interest or not.

Receipts or discharges written upon promissory notes, bills of exchange, drafts, cheques, or orders for the payment of money duly stamped according to the laws in force at the date thereof, or upon bills of exchange drawn out of, but payable in, this Island.

Receipts or discharges endorsed or otherwise written upon or contained in any bond, mortgage, or other security, or any conveyance, deed, or instrument whatever, duly stamped according to the laws in force at the date thereof, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby received.

Releases or discharges for money by deed duly stamped according to the laws in force at the date thereof.

Stamp Duties.

	Duty.		
	£	s.	d.
Receipts or discharges given by or to any Government Agent, Fiscal, or his deputy or officer, or any other public officer in the execution of his office.			
Transfer or assignment of bond, mortgage, and lease, where the money secured or consideration paid or security assigned shall not exceed 5*l.* - - -	0	0	3
Exceeding £5 and not exceeding £10 - -	0	0	6
„ 10 „ 20 - -	0	1	0
„ 20 „ 30 - -	0	1	6
„ 30 „ 40 - -	0	2	0
„ 40 „ 50 - -	0	2	6
„ 50 „ 75 - -	0	3	9
„ 75 „ 100 - -	0	5	0
And for every additional 100*l.*, or part thereof, a further progressive duty of - - -	0	5	0
Warrant to act as a notary public - - -	5	0	0

Exemptions.

Where any person duly admitted a notary in any district of this Island shall be afterwards admitted a notary in any other district, the subsequent warrant shall be free of duty.

Exemptions from the preceding and all other Stamp Duties.

All instruments exempted from the payment of stamp duties by virtue of the Ordinance No. 7 of 1833, No. 7 of 1853, and No. 12 of 1859.

All instruments to or on behalf of Her Majesty, or any Government officer in his official capacity.

All wills, testaments, and codicils, whether notarial or otherwise.

All instruments for the sale, transfer, or other disposition, either absolutely or by way of mortgage, or otherwise, of any ship or vessel, or any part, share, or property of or in any ship or vessel.

Provided that where any grant of land shall be made by Her Majesty or her successors, and where any instrument herein-before specified (not being a draft, order, or promissory note for the payment of money, or a receipt or discharge for or upon the payment of money,) shall be executed or acknowledged before a notary public, or shall be executed before some public officer, under the authority of the Ordinance No. 17 of 1852, entitled "To make further provision touching the execution of certain Deeds and Instruments," or by any Fiscal or Deputy Fiscal in the execution of his office, the stamp duty hereby chargeable on such instrument shall be chargeable on the duplicate or counterpart thereof instead of on the original instrument, and in such case, if the duty exceed the sum of five shillings, the original instrument shall bear a stamp of - - - - - 0 2 0

PART II.

CONTAINING THE DUTIES ON LAW PROCEEDINGS.

IN THE SUPREME COURT. In Civil Proceedings.	Class 1. Under 10*l.*	Class 2. Under 30*l.*	Class 3. Under 75*l.*	Class 4. Under 150*l.*	Class 5. Under 500*l.*	Class 6. Under 1,000*l.*	Class 7. Under 5,000*l.*	Class 8. 5,000*l.* and upwards.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Every affidavit or affirmation.—Bill of costs.—Bond of security in appeal to the Queen in Council or other bond or recognizance.—Certificate in appeal to the Queen in Council.—Copy (office copy) of any decree, deposition, document, or other matter of record.—Decree or judgment, or order having the effect of a decree or judgment, interlocutory or final.—Exemplification under the seal of court of any record or proceedings therein.—Exhibit of each unstamped document.—Injunction.—Mandate, or writ of mandamus procedendo and prohibition.—Order of transference.—Petition to the Queen in Council.—Proxy.—Rule nisi or absolute.—Summons.—Translation of any exhibit	0 1 6	0 3 0	0 4 0	0 6 0	0 9 0	0 12 0	0 15 0	1 0 0

Exemptions.

All affidavits or affirmations for verifying service of process.

All mandates in the nature of writs of habeas corpus, and all rules relating thereto.

Provided also, that no Queen's Advocate or Deputy Queen's Advocate suing or being sued or intervening in any suit *virtute officii*, and no person duly admitted to sue, or intervene or defend, as a pauper, shall be required to use any stamps in civil proceedings in the Supreme Court; but if judgment for costs shall be given in favour of such advocate or pauper, the value of such stamps as would have been used by him if he had not been allowed to proceed without using stamps, or the value of such part thereof as shall be mentioned in the said judgment, shall be paid by the party against whom such judgment shall have been given to the Commissioner of Stamps, or to the secretary or clerk of the court in which the case shall have been instituted for and on behalf of such commissioner; and in failure thereof the said secretary or clerk shall insert the said value in

the writ of execution issued by the party in whose favour such judgment shall have been given, and shall pay the said value when recovered to the said commissioner from the first amount levied under the said writ; or if no such writ be issued, the sa d secretary or clerk shall issue a writ of execution, free of stamp duty, for the recovery of the said value to be appropriated in like manner: Provided that if the said value be inserted by the secretary or clerk as aforesaid in the writ issued by the party in whose favour judgment has been given, the first proceeds of such writ shall be applied to the payment of the fees due to the said advocate, and to the advocate or proctor, if any, who has conducted the case of such pauper, and after such appropriation the proceeds shall next be applied to the payment of the said value of stamps.

All matrimonial proceedings shall be charged as in the fourth class.

Testamentary proceedings shall be charged in the class corresponding with the value of the estate which must be set out by affidavit when the application for probate or letters of administration is made.

In the District Courts. In Civil Proceedings.	1st Class. Under 30*l.*	2d Class. Under 75*l.*	3d Class. Under 150*l.*	4th Class. Under 500*l.*	5th Class. Under 1,000*l.*	6th Class. Under 5,000*l.*	7th Class. 5,000*l.* and upwards.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Every affidavit or affirmation.—Bill of costs.—Certificate in appeal.—Commission to survey.—Of reference and all other commissions.—Commitment in mesne process or execution.—Copy (office copy) of the decree or judgment.—Libel.—Answer.—Replication, or other pleading.—List of witnesses.—Notice of trial or argument.—To hear judgment of the district court or the Supreme Court.—Petition of appeal.—Proxy.—Rule nisi or absolute.—Summons to defendant or defendants without reference to number.—Summons to intervenient or intervenients without reference to number.—Warrant of attachment.—Writ of execution against person or property - - - - -	0 2 0	0 3 0	0 5 0	0 8 0	0 10 0	0 12 0	0 15 0
Every award.—Bail bond or other bond or recognizance.—Certificate of quiet possession.—Commission to examine witnesses.—Edictile citation for certificate of quiet possession.—Injunction.—Set of interrogatories.—Sequestration.—Warrant of arrest in mesne process - - - - -	0 5 0	0 8 0	0 12 0	0 18 0	1 5 0	1 10 0	2 0 0
Every exhibit of each unstamped document.—Office copy, duly certified, of all matter of record, per sheet of 120 words.—Subpœna to each witness.—Translation of each document - -	0 0 9	0 1 0	0 1 6	0 2 6	0 3 6	0 4 0	0 7 6

No oral pleading shall be received, except the party wishing to plead orally shall furnish a blank sheet of paper on which to write the pleading, and which paper shall bear a stamp of the

same value as if it were a written pleading in a case of the like class; and any party failing to furnish such paper shall be taken to be in default.

Poundage at the rate of one per centum on all monies levied in execution either by sale or by payment of the debtor to the Fiscal or his deputy, although the creditor becomes purchaser of the property sold in execution, and obtains credit for the purchase money in reduction of the writ. The order for credit or for payment should be written on a stamp or stamps answering in value to such one per centum.

No party shall be allowed to take any proceedings on or by virtue of any decree or judgment without first taking a copy thereof.

Provided also, that no Queen's Advocate or Deputy Queen's Advocate suing or being sued or intervening in any suit *virtute officii*, and no person duly admitted to sue, defend, or intervene as a pauper shall be required to use any stamps in civil proceedings in the district court; but if judgment for costs shall be given in favour of such advocate or pauper, the value of such stamps as would have been used by him if he had not been allowed to proceed without using stamps, or the value of such part thereof as shall be decreed by the said judgment, shall be paid by the party against whom such judgment shall have been given, to the Commissioner of Stamps, or to the secretary for and on behalf of such commissioner; and in failure of payment the said secretary shall insert the said value in the writ of execution issued by the party in whose favour such judgment shall have been given, and shall pay the said value when recovered to the said commissioner, from the first amount levied under the said writ; or if no such writ be issued, the said secretary shall issue a writ of execution, free of stamp duty, for the recovery of the said value, to be appropriated in like manner: Provided that if the said value be inserted by the said secretary as aforesaid in the writ issued by the party in whose favour judgment has been given, the first proceeds of such writ shall be applied to the payment of the fees due to the said advocate, and to the advocate or proctor, if any, who has conducted the case of such pauper; and after such appropriation the proceeds shall next be applied to the payment of the said value of stamps.

And no summons, subpœna, warrant of arrest or in execution, nor any other citation or writ whatsoever which has once been issued out of the court, and returned by the officer to whom it was directed, shall on any pretext whatever be re-issued, unless any such process has been returned not served or executed by reason that the party could not be found, or had left the jurisdiction of the court, or by reason that no property of the debtor, or none sufficient to satisfy the exigency of any writ of execution, could be found: Provided always, that in respect of any subpœna or subpœnas the same may be re-issued although served, in case the judge shall, on good cause shown, so order.

Stamp Duties.

Provided also, that in appeals to the Supreme Court, the appellant shall deliver to the secretary of the district court, together with his petition of appeal, the proper stamp for the decree or order of the Supreme Court, and certificate in appeal which may be required for such appeal.

Matrimonial suits shall be charged as in the third class.

Testamentary proceedings shall be charged in the class corresponding with the value of the estate, which must be set out by affidavit when the application for probate or letters of administration is made.

Exemptions.

All affidavits or affirmations for verifying service of process; all orders for the release or discharge of civil prisoners; all warrants of attachment for non-attendance or contempt issued by the court at its own instance.

In the Courts of Requests.	1st Class. Under 2*l.*	2nd Class. 2*l.* and under 5*l.*	3rd Class. 5*l.* and upwards.
	£ s. d.	£ s. d.	£ s. d.
Every affidavit or affirmation.—Bail bond or other bond or recognizance.—Commission to survey, or for any other purpose.—Commitment.—Copy of decree or judgment.—Notice or rule.—Proxy.—Plaint or answer.—Petition of appeal.—Summons to defendants or intervenients without number.—Warrant of attachment or execution - - - - - - - - -	0 0 6	0 1 0	0 2 0
Every office copy of any matter of record - - - - - - - - -

commissioner; and in failure of such payment the said clerk shall insert the said value in the writ of execution issued by the party in whose favour such judgment shall have been given, and shall pay the said value when recovered to the said commissioner from the first amount levied under the said writ, or if no such writ be issued, a writ of execution free of stamp duty for the recovery of the said value to be appropriated in like manner: Provided that if the said value be inserted by the said clerk as aforesaid in the writ issued by the party in whose favour judgment has been given, the first proceeds of such writ shall be applied to the payment of the fees due to the said Government officer; and after such appropriation the proceeds shall next be applied to the payment of the said value of stamps.

And no summons, subpœnas, warrant of arrest or in execution, nor any other citation or writ whatsoever which has once been issued out of the court and returned by the officer to whom it was directed, shall on any pretext whatever be re-issued, unless any such process has been returned not served or executed by reason that the party could not be found, or had left the jurisdiction of the court, or by reason that no property of the debtor or none sufficient to satisfy the exigency of any writ of execution could be found.

Provided always, that in respect of any subpœna the same may be re-issued, although served, in case the commissioner shall on good cause shown so order: Provided also, that in appeals to the Supreme Court the appellant shall furnish to the clerk of the court the proper stamp for the decree or order of the Supreme Court, and the certificate in appeal which may be required for such appeal.

No party shall be allowed to take any proceedings on or by virtue of any judgment or decree without first taking a copy thereof.

Exemptions.

All affidavits or affirmations for verifying service of process; all warrants of attachment issued by the court at its own instance.

PART III.

Containing the Duties in Testamentary Proceedings, on Probates of Wills and Letters of Administration.

	Duty. £	s.	d.
Every account, provisional or final } - - -	0	5	0
„ bond - - - }			
„ copy (office copy) of any will or codicil, or extract therefrom, or of any document mentioned in this part of the schedule - - -	0	1	6

	Duty.		
Probate of a will, or letters of administration, where the property and estate for or in respect of which such probate or letters of administration shall be granted, exclusive of what the deceased shall have been possessed of or entitled to as trustee for any other person or persons, and not beneficially, and exclusive also of the debts due by the deceased on mortgage or other notarial bonds, shall be	£	s.	d.
Under the value of £5 - - - -	0	1	0
Of the value of £5, and under the value of £10 -	0	2	0
" 10 " " 20 -	0	4	0
" 20 " " 30 -	0	6	0
" 30 " " 40 -	0	8	0
" 40 " " 50 -	0	10	0
" 50 " " 75 -	0	15	0
" 75 " " 100 -	1	0	0
And for every additional 25*l.*, or part thereof, a further progressive duty of - - - - -	0	5	0

23rd October 1861.

120.

No. 16 OF 1861.

An Ordinance to amend the Law respecting the Payment in certain cases of the Expenses of Witnesses and of Medical Practitioners.

WHEREAS it is expedient to amend the law respecting the payment in certain cases of the expenses of witnesses and of medical practitioners: It is enacted as follows: Preamble.

1. Repealing clause.

2. Witnesses residing at a greater distance than ten miles from the place where the criminal sessions of the Supreme Court shall be holden, who shall be summoned at the instance of the Queen's Advocate, or of any accused person, to give evidence at any trial which shall be fixed for such sessions, and who shall attend in compliance with such summons, shall be entitled to demand payment of their expenses from the Fiscal, who is hereby authorized and required to make such payment according to such rates as shall be prescribed to such Fiscal by the Governor, with the advice of the Executive Council. Witnesses residing more than ten miles from the circuit towns entitled to payment of their expenses.

3. No subpœna shall be issued to any witness at the instance of any prisoner unless the justice of the peace who committed him for trial, who or admitted him to bail, shall have certified that the evidence of such witness is material to the defence, or unless such prisoner or some one on his behalf shall have previously deposited with the Fiscal the expenses which such witness To whom subpœnas may issue.

would be entitled to if the necessity of his evidence had been duly certified as aforesaid : Provided that the Fiscal shall issue subpœna to any witness in respect of whom any advocate or proctor of the Supreme Court shall certify that, having made due inquiry, he is satisfied and does verily believe that such witness is material to the defence of such person upon the facts of the case, and that the prisoner is unable to make the deposit herein required : Provided further, that payment shall in no case be made to more than two witnesses who are certified to speak to character.

Proviso.

Further proviso.

Advance to poor witnesses.

4. The Fiscal may, in any case in which it shall appear to him that any witness entitled to payment would be prevented from attending the court in consequence of his poverty, advance to such witness a sum not exceeding half the amount of expenses which such witness would be entitled to receive.

Judge may order or disallow payment of witnesses' expenses.

5. The judge presiding in the Supreme Court at any criminal trial shall have full power and authority to make order on the Fiscal for the payment of the expenses of any person giving evidence at such trial who shall have attended from a greater distance than ten miles as aforesaid, and who would not be otherwise entitled to such payment, and whose evidence shall appear to the judge to be material to the defence ; and the judge shall also have full power and authority to make order on the Fiscal to disallow the payment of the expenses of any witnesses, whether on the side of the prosecution or defence, otherwise entitled to payment, whom he shall consider not deserving of such payment ; and the Fiscal, on receiving such order from the judge, shall make or refuse such payment accordingly.

What medical practitioners are entitled to payment.

6. Every medical practitioner not employed in the fixed establishments of the Colony, who shall attend as witness at any criminal sessions, shall, in addition to his travelling expenses, be entitled to demand of the Fiscal, and the Fiscal is hereby authorized and required to make payment to him, of the sum of one pound for each and every day that he shall be necessarily absent from his home for the purposes of such attendance, unless the presiding judge shall disallow the expense as herein-before provided for.

When the fee allowed by 17th section of Ordinance 15 of 1843 shall be payable.

7. The fee of one guinea allowed to medical practitioners by the 17th section of the Ordinance No. 15 of 1843, entitled " An " Ordinance for providing in certain respects for the more effi- " cient Administration of Justice in Criminal Cases," shall in no case be paid to any medical practitioner employed in the fixed establishments of the Colony, unless the principal civil medical officer shall certify that the case referred to and examined by such medical practitioner was one of serious injury, and such as called for examination by a medical practitioner.

Qualification of medical practitioner.

8. No medical practitioner shall be entitled to the aforesaid payments, or to the payment provided for by the 31st section of the Ordinance No. 8 of 1843, except such as shall have received a collegiate education, or shall hold a certificate of competency (for the purposes of this Ordinance) from the principal civil medical officer.

9. Has had its effect.

20th November 1861.

121.

No. 18 OF 1861.

An Ordinance for giving effect to certain Rules and Orders for the Police Courts.

WHEREAS by the Ordinance No. 8 of 1846, entitled "For rendering the operation of Rules of Court contingent on their enactment by the Legislature," it is provided that whenever any general rule of court, framed by the judges of the Supreme Court, shall have been transmitted to the Governor in the manner directed by the said Ordinance, such rule shall be laid by the said Governor in the form of an Ordinance before the Legislative Council, to be considered and dealt with by the said council in such and the same manner as any other Ordinance, and that no general rule framed by the said judges shall operate and take effect until the same shall have been duly enacted: And whereas the judges have transmitted to the Governor, in the manner directed by the said Ordinance, the general rules and orders in the Schedule to this Ordinance annexed: Preamble.

It is enacted that the general rules and orders in the Schedule A. to this Ordinance annexed are hereby confirmed, and shall come into operation and take effect from and after the first day of January one thousand eight hundred and sixty-two.

SCHEDULE.

A.

GENERAL RULES AND ORDERS FOR THE POLICE COURTS.

It is ordered that the general rules and orders promulgated in open court on the seventeenth day of June one thousand eight hundred and forty-four shall, on and from the first day of January one thousand eight hundred and sixty-two cease to be in force, and that in lieu thereof the following shall, on and from such day, be the rules of practice for regulating the procedure of the said courts.

I. *Commencement of Proceedings.*

1. Any person may complain to a police court of any crime or offence whatsoever cognizable by such court. Who may be prosecutor.

2. The person making such complaint shall either state the same orally to the chief clerk of such court, who shall enter the same by way of plaint in a separate sheet of paper, or he shall deliver to the said clerk a plaint written on a separate sheet of paper, and signed by himself. Complaint how preferred.

3. Every such plaint shall bear date of the day and year in which it is entered, and shall state the names and residences of Form and contents of plaint.

the parties complainant and defendant, the crime or offence complained of, and the time and place of its commission, in such language or by such description as will show that it is punishable by law and is within the jurisdiction of the court; and every such plaint shall be, as near as is material, in the form and according to the precedents contained in the schedule of forms hereunto annexed (B.): Provided that no complaint shall be held to be insufficient by reason of a departure from the strict letter of the said forms, or by reason of any defect or imperfection which does not prejudice the substantial rights of the defendant upon the merits.

The "record."

4. Every such plaint shall be numbered in the order in which it shall be entered or delivered in, and shall form the commencement of the record and of the proceedings consequent thereon; and such record shall be open to the inspection of either party at all reasonable hours.

Summons.

5. Upon such plaint being entered or delivered as aforesaid the chief clerk shall forthwith, by a note on the record, appoint a day for the appearance of the defendant and the hearing of the complaint, and shall intimate the same to the complainant, or his proctor or advocate, and shall issue a summons under his hand for the appearance of the defendant on such appointed day.

Form and contents of summons.

6. And every such summons shall contain the number of the plaint, the name and residence of the complainant, and the name and residence of the defendant, a statement of the crime or offence complained of, and the time and place of its commission; and every such summons shall be, as near as is material, in the form C. in the schedule of forms hereunto annexed.

Form of warrant.

7. Any warrant granted under the 14th clause of the Ordinance No. 13 of 1861 shall be, as near as is material, in the form D. in the schedule of forms hereunto annexed.

Defendant, when brought up on warrant, how disposed of.

8. The defendant, being brought up upon such warrant, shall either be tried at once, or in the event of an adjournment shall be committed to prison, unless he shall enter into a recognizance, with or without sureties, at the discretion of the magistrate, conditioned for his appearance on the day appointed or to be then appointed for the hearing of the complaint; and every such commitment and recognizance shall be, as near as is material, in the forms E. and F. respectively in the schedule of forms hereunto annexed.

II. *Process.*

Service of process through whom effected.

9. All summonses, warrants, subpœnas, or other process issuing from any police court may be issued into and shall be served and executed in any district of the Island, by or under the orders of such person as shall be named therein.

Mode of service.

10. Every summons or warrant shall be accompanied with a copy, or a translation thereof, in the language of the party on whom the same is intended to be served, which copy or translation shall be served personally on such party; and every subpœna

or other process shall be accompanied with a like copy or translation, which shall be delivered either personally to such party on whom the same is intended to be served, or to some person of his household apparently sixteen years old, at his dwelling house or place of business; and such delivery shall be deemed good service.

Misnomer or misdescription not to vitiate the process.

11. No misnomer or misdescription of any person or place in any summons, warrant, subpœna, or other process as aforesaid, and no defect or imperfection therein, shall vitiate the same, provided the same be not calculated to mislead the party on whom the same has been served or executed.

Service, how proved.

12. The service or execution of any such summons, warrant, subpœna, or other process as aforesaid may be proved by affidavit, purporting to be sworn before any person having by law the right to administer oaths; and the return thereto shall be, as near as is material, in the form and according to the precedents contained in the schedule of forms hereunto annexed (G.).

III. *Proceedings on Non-appearance.*

On non-appearance of complainant the complaint may be dismissed.

Proviso as to adjournments.

13. If upon the return day of the summons, or upon any day appointed for the hearing of the complaint, the complainant shall not appear, and his absence shall not be sufficiently accounted for, the complaint shall be dismissed: Provided that the magistrate may, once or oftener, at his discretion, instead of dismissing the complaint, adjourn the hearing thereof to another day, and cause a notice to be issued to the complainant requiring him to attend before the court on the day to which the hearing has been so adjourned, which notice shall be, as near as is material, in the form H. in the schedule of forms hereunto annexed.

Magistrate may on adjournment release defendant from custody.

14. But if at the time of such adjournment the defendant should be in custody, the magistrate may at his discretion discharge him upon his entering into a recognizance, with or without sureties, at the discretion of the magistrate, conditioned for his appearance on the day to which the hearing has been so adjourned; and every such recognizance shall be, as near as is material, in the form E. in the schedule of forms hereunto annexed.

On non-appearance of defendant, warrant.

15. If upon the return day of the summons, or upon any day appointed for the hearing of the complaint, the defendant shall not appear, and his absence shall not be sufficiently accounted for, the magistrate, upon due proof of service of the summons, notice, or order requiring such appearance, shall, on the motion of the complainant, grant a warrant under his hand for the apprehension of the defendant; and every such warrant shall be, as near as is material, in the form I. in the schedule of forms hereunto annexed.

Defendant when brought up, how disposed of.

16. The defendant being brought up upon such warrant shall either be tried at once, or in the event of an adjournment shall be committed to prison, unless he shall enter into a recognizance, with or without sureties, at the discretion of the magistrate, con-

ditioned for his appearance on the day appointed for the hearing of the complaint; and every such commitment and recognizance shall be, as near as is material, in the forms E. and F. respectively in the schedule of forms hereunto annexed.

IV. *Proceedings previous to Hearing.*

Subpœna to witnesses.

17. Either party shall at all times be entitled to summon any number of witnesses whose evidence he may deem necessary for the purposes of his case, and the chief clerk shall, whenever required by such party, issue a subpœna under his hand to each of the said witnesses, requesting his attendance in court on the day of hearing; provided that such party shall have previously either stated the names and residences of such witnesses to the said clerk (who shall enter the same on the record), or have delivered to him a list or additional list containing their names and residences: Provided also, that such party shall, if required by the magistrate so to do, have made affidavit that any person whom he desires to subpœna is a material and necessary witness; and every such subpœna shall be, as near as is material, in the form K. in the schedule of forms hereunto annexed.

Proviso as to list of witnesses.

Adjournment of hearing on cause shown.

18. Whenever the magistrate shall be satisfied, by affidavit or otherwise, that either party is not ready to proceed to a hearing by reason of the absence of any material witness (such witness not being kept away by such party), or for other sufficient cause, it shall be lawful for such magistrate to allow the hearing to stand over, once or oftener, at his discretion, and upon such terms as the circumstances of the case may render necessary: Provided, however, that the magistrate may, if he think fit, examine any witnesses that may be present, and adjourn the further hearing of the case until the evidence of such absent witness shall have been obtained; and provided also, that the mere consent of the parties, or their proctors or advocates, shall not be deemed sufficient ground for adjournment, unless some sufficient cause for the same shall also be shown to the satisfaction of the magistrate.

Defendant in custody, or under recognizance, how disposed of, on adjournment.

19. If at the time of such adjournment the defendant should be in custody the magistrate may, by an endorsement on the commitment, remand him to prison, or in case he shall have given recognizance for his appearance may order such recognizance to be renewed, or in default of such renewal may commit him to prison until such adjourned day.

V. *Proceedings on the Day of Hearing.*

Plea, how taken down.

20. If on the day named in the summons, or on any day appointed for the hearing of the complaint, the defendant shall be present in court, and both parties shall be ready to proceed to trial, the magistrate shall cause the plaint to be read to the defendant and shall call upon him to plead thereto, and shall take down his plea in writing on the record: Provided that if the defendant shall refuse to plead, or shall be silent, or otherwise

state matters not amounting to either a plea of guilty or not guilty, the magistrate shall record a plea of not guilty on his behalf.

Hearing and judgment.

21. The magistrate shall thereupon proceed to hear the complainant and his witnesses, and shall then hear any statement which the defendant or his proctor or advocate may make with reference to the evidence, and also any witnesses who may be called for the defence, and shall thereupon pronounce his judgment.

On acquittal defendant shall be discharged.

22. If the defendant be found not guilty of the complaint, he shall, unless there be any other cause of detention, be at once discharged.

Sentence upon conviction.

23. If the defendant be found guilty the magistrate shall pronounce sentence on him as the circumstances of the case shall in his judgment require, provided the same shall not exceed the amount of punishment which may by law be inflicted.

Amendments.

24. If any error shall have been committed in recording the complaint the magistrate may amend the same at any time before pronouncing judgment; provided that in case such amendment is in any matter of substance the magistrate shall, if required by the defendant, postpone the hearing or further hearing of the case, so as to give him reasonable time for his defence on such new matter.

Record of the proceedings.

25. A full and complete record shall in all cases be kept of the evidence of the witnesses and of all the other proceedings had in the case, and all judgments and sentences shall be pronounced in open court, and reduced into writing on the record and signed by the magistrate.

The "calendar."

26. The chief clerk shall, in addition to the record hereinbefore mentioned, keep a separate book, to be called the "Calendar," wherein he shall enter each complaint in the order of date in which it shall be preferred to him, the names and residences of the parties thereto, the nature of the crime or offence complained of, the dates of the adjournments, if any, and the judgment and sentence ultimately pronounced therein, with the date thereof; and also, if there shall have been an appeal, the result of such appeal, and the date of the judgment in appeal; and such calendar shall be, as near as is material, in the form L. in the schedule of forms hereunto annexed.

The "trial roll."

27. The chief clerk shall also keep a book, to be called the "Trial Roll," wherein he shall enter the number of all the cases set down for hearing, in the order in which they shall have been set down; and all cases so set down shall be taken up for hearing in the order in which they shall be so entered as aforesaid: Provided, however, that it shall be competent for the magistrate, upon cause shown, to advance any cause and try the same before its turn.

VI. *Appeal.*

Petition of appeal.

28. Any party wishing to appeal from any final judgment or sentence of a police court, for any error in law, may do so by

petition to the Supreme Court, which petition shall be delivered to the chief clerk within ten days from the day on which such judgment or sentence shall have been pronounced.

Record to be transmitted to the Supreme Court.

29. The police magistrate shall forthwith after such petition shall have been delivered forward the same to the Supreme Court, together with the record of the case, and the documents and processes connected therewith.

If judgment set aside, the appellant entitled to have back fine.

30. Any party appellant who shall have paid any fine in pursuance of a judgment or sentence of the police court which shall have been subsequently set aside or modified in appeal shall be entitled to have back from the magistrate the amount of the said fine, or so much thereof as shall have been remitted by the judgment in appeal.

VII. *Execution.*

Fines how recovered.

31. All fines imposed by a police court under the authority of this Ordinance, and all recognizances forfeited therein, may be enforced and recovered in manner provided for by the Ordinance No. 6 of 1855, "To amend the Ordinance No. 11 of 1844."

Sentence of imprisonment how carried out.

32. Whenever any party shall be sentenced by a police court to undergo imprisonment, a writ of commitment shall be issued to the Fiscal, under the hand of the police magistrate, directing such Fiscal to receive and detain such party in his custody in terms of the said sentence, and every such writ shall be, as near as is material, in the form M. in the schedule of forms hereunto annexed.

Sentence of corporal punishment how carried out.

33. All sentences of corporal punishment pronounced by a police court shall be carried into execution under an order granted under the hand of the police magistrate, and every such order shall be, as near as is material, in the said form M. in the schedule of forms hereunto annexed.

B.

Forms of Plaints.

In the Police Court of

No. *A.B.* of Complainant,

vs.

C.D. of Defendant.

(*Date.*)

Plaint:—That the defendant (*did*) [on the (*sixteenth*) day of (*February*) last, at (*Hill Street, in Colombo*) [*here state the matter complained of, as in the following forms:*]

1. *Assault.*—Assault and beat the complainant.

2. *Assault on a Public Officer.*—Assault and resist the complainant, being an officer of police, while in the execution of his duty.

3. *Obstructing a Road Officer.*—Obstruct and molest the complainant, when acting under the authority of the District Road

Committee of (*Negombo*), in the seizure of a bullock found straying on the road, in breach of § 74 of the Ordinance No. 15 of 1843.

4. *Theft.*—Steal a (*comb*), the property of the complainant.

5. *Receiving Stolen Property.*—Receive, knowing it to be stolen, a (*comb*), the property of the complainant.

6. *Neglect of Duty by Servant.*—Grossly neglect his duty whilst in the service of the complainant as a (*domestic servant*), in breach of § 7 of the Ordinance No. 5 of 1841.

7. *Desertion of Child.*—Leave his child without maintenance, so that it requires to be supported by others, in breach of § 3 of the Ordinance No. 4 of 1841.

8. *Exposure of Person.*—Indecently expose his person, in breach of § 4 of the Ordinance No. 4 of 1841.

9. *Forcible Entry.*—Without the authority of a magistrate take forcible possession of the field (*Illook-cumboore*), whilst in the possession of the complainant, in breach of the proclamation of the 5th August 1819.

10. *Failure to perform Labour.*—Fail to attend and perform labour on the (*Madampittiye*) road, though duly required so to do, in breach of § 5 of the Ordinance No. 14 of 1848.

11. *Cock Fighting.*—(*Was*) engaged in cock fighting, at a tavern, in breach of § 4 of the Ordinance No. 4 of 1841.

12. *Gaming.*—(*Was*) engaged at a game of chance with cards, in a shed kept for the purpose of promiscuous gaming, in breach of § 4 of the Ordinance No. 4 of 1841.

13. *Illegal Possession of Arrack.*—(*Was*) found in possession of gallons of arrack, contrary to the provision of § 32 of the Ordinance No. 10 of 1844.

14. *Collecting Toll without a Badge.*—Being the toll-keeper at the (*Dehiwelle*) Bridge collect toll without wearing his metal badge, in breach of § 9 of the Ordinance No. 9 of 1845.

15. *Forcibly passing a Toll Station.*—Forcibly pass across the place appointed for the collection of tolls at the (*Mutwall*) Ferry, in breach of § 13 of the Ordinance No. 13 of 1845.

C.

FORM OF SUMMONS.

In the Police Court of

No. *A.B.* of Complainant,

vs.

C.D. of Defendant.

To the defendant above named.

You are required to appear before this court on the day of , at ten o'clock in the forenoon, to answer a complaint preferred against you by the complainant above named, in that you did on the [*here copy the plaint*].

(*Date.*) *J.M. Chief Clerk.*

D.

FORM OF WARRANT UNDER § 14 OF ORD. No. 13 OF 1861.

In the Police Court of

No. *A.B.* of Complainant,

vs.

C.D. of Defendant.

To

Inspector of Police (*or as the case may be*).

Whereas it has been shown to the satisfaction of this court, that the attendance of the above-named defendant cannot be secured by means of an ordinary summons; you are therefore required forthwith to apprehend and bring him before this court, to answer a complaint preferred against him by the complainant above named, in that the said defendant did on the (*here copy the plaint*).

(*Date.*) *G.H. Police Magistrate.*

E.

FORM OF COMMITMENT.

In the Police Court of

No. *A.B.* of Complainant,

vs.

C.D. of Defendant.

To the Fiscal for the province.

Receive into your custody the body of the above-named defendant herewith sent to you, charged with (*here state the offence in terms of the plaint*), and safely keep him until the day of , when you are hereby required to bring him before me at ten o'clock in the forenoon, to be dealt with according to law.

(*Date.*) *G.H. Police Magistrate.*

(*Endorsement, in case of a remand:* Remanded till the day of 1861.)

(*Date.*) *G.H. Police Magistrate.*

F.

FORM OF RECOGNIZANCE.

In the Police Court of

No. *A.B.* Complainant,

vs.

C.D. Defendant.

Be it remembered that we, *C.D.* and *E.F.*, both of , are jointly and severally held and firmly bound to our Sovereign Lady the Queen in the sum of £ , that is to say, the

said *C.D.* in £ , and the said *E.F.* in £ , to be paid unto our said Lady the Queen, her heirs and successors; for which payment to be well and truly made we bind ourselves, our heirs, executors, and administrators, and all our property, firmly by these presents.

The condition of this recognizance is such, that if the above-bounden *C.D.* shall appear before the said court on the day of , at ten o'clock in the forenoon, and take his trial in the above-styled case, then this recognizance shall be void, or otherwise shall be in full force and virtue.

Witness our hands, at , this day of , one thousand eight hundred and sixty .

Signed in my presence, *C.D.*

G.H. Police Magistrate. *E.F.*

G.

FORMS OF RETURNS.

(*To be endorsed or annexed.*)

I do hereby swear (*or* affirm, *as the case may be,*) that I did on the day of . serve the within summons, (*or* subpœna, *or as the case may be,*) on the within-named defendant (*or* witness, *or as the case may be,*) by (*here state the mode of service, as in the following forms:*)

(*a.*) By delivering a copy (*or* translation) thereof to him.

(*b.*) By delivering a copy (*or* translation) thereof to (*Juanis Appoo*), being a person of his household apparently more than sixteen years old, whom I found at the (*dwelling house*) of the said defendant (*or* witness).

Sworn this day of 186 , before me }

H.

FORM OF NOTICE.

In the Police Court of

A.B. of Complainant,

No. vs.

C.D. of Defendant.

To the above-named plaintiff.

You are required to attend this court on the day of , at ten o'clock in the forenoon, to be examined touching the above case.

(*Date.*) *J.K. Chief Clerk.*

I.

FORM OF WARRANT UNDER § 15 OF THE RULES AND ORDERS.

In the Police Court of

A.B. of Complainant,

No. . vs.

C.D. of Defendant.

To

Inspector of Police (*or as the case may be*).

Whereas the above-named *C.D.* having been summoned to appear before this court has failed to do so, or to excuse his absence; you are therefore required forthwith to apprehend and bring him before this court to answer the complaint there pending against him.

(*Date.*) *G.H. Police Magistrate.*

K.

FORM OF SUBPŒNA.

In the Police Court of

A.B. of Complainant,

No. . vs.

C.D. of Defendant.

To . .

You are required to appear before this court on the day of , at ten o'clock in the forenoon, to give evidence touching the above case.

(*Date.*) *J.K. Chief Clerk.*

L.

FORM OF "CALENDAR."

Calendar of the Police Court of .

Number of Plaint.	When instituted.	Name and Residence of Complainant.	Name and Residence of Defendant.	Crime or Offence charged.	Judgment, and Date thereof.	Sentence.	Judgment in Appeal, and Date thereof.	Remarks.

M.

Form of Commitment or Order under § 33 and § 34.

In the Police Court of

	A.B. of	Complainant,
No. .	vs.	
	C.D. of	Defendant.

To the Fiscal for the province.

Whereas the above-named defendant stands convicted before me of (*here state the offence*), and has been sentenced to you are therefore hereby required to cause the said sentence to be carried into execution.

(*Date.*) *G.K. Police Magistrate.*

11th December 1861.

122.

No. 1. of 1862.

An Ordinance for vesting all Lands and Property in Ceylon, occupied by or for the Naval Service of the United Kingdom of Great Britain and Ireland, in the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral, of the said United Kingdom for the time being.

Preamble.

Whereas divers lands have been at various times purchased in Ceylon for the use of the naval service of the United Kingdom of Great Britain and Ireland, and conveyed to several different persons in trust for Her Majesty and her royal predecessors, and her and their heirs and successors, and the same have been placed under the charge of the Commissioners for executing the office of Lord High Admiral of the said United Kingdom for the time being ; and it is expedient that the same and all other lands in Ceylon that may be hereafter purchased, or in any manner acquired by or used and occupied by or for the said service, should be vested in the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid, for the time being :

It is enacted as follows :

All lands, &c. held for the naval service vested in the Admiralty.

1. All lands and property which have been conveyed to or are vested in any person or persons, or are held or in any manner occupied by or in the name of any person in trust for Her Majesty or her royal predecessors, and her or their heirs or successors, for the use of the naval service of the said United Kingdom, or of any of the departments of or belonging to the

said naval service, by whatever title or for whatever interest therein the same shall be had, held, or occupied, together with all rights, servitudes, and appurtenances thereto belonging, shall be vested in the Lord High Admiral of the said United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid for the time being, according to the respective nature and quality of the said lands, and the several interests therein respectively, in trust for Her Majesty, her heirs and successors, for the public service.

Lands, &c. subsequently acquired for the naval service to vest in the Admiralty.

2. From and after the purchase and conveyance, grant or demise thereof, all other lands hereafter purchased, taken, held, or occupied by the Lord High Admiral or the commissioners aforesaid, or by any person by his or their order for the said naval service, or any of the departments thereof, and all things thereafter erected or built thereon, with the rights, servitudes, and appurtenances to the said lands and things respectively belonging, shall in like manner be vested in the Lord High Admiral or the said commissioners for the time being, according to the respective nature and quality of the said lands and things, and the several interests therein in trust as aforesaid.

Lands vested in the succeeding Lords Commissioners of the Admiralty.

3. Upon the death, resignation, or removal of the present Commissioners for executing the office of Lord High Admiral of the United Kingdom, or of any of them, or of any future such commissioners, or of any Lord High Admiral of the United Kingdom, all such lands and things shall become vested in and be held by the succeeding Commissioners for executing the office of Lord High Admiral aforesaid, or the Lord High Admiral aforesaid, as the case may be, and so in perpetual succession, according to the respective nature and quality of the said lands and the several interests therein in trust as aforesaid.

Title by which Lords Commissioners of Admiralty may be cited.

4. In all deeds, conveyances, leases, contracts, and other instruments touching any land, property, matter, or thing relating to the said naval service, or to any department under the control of the commissioners aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally as "the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without expressing their names; and all such deeds, conveyances, leases, contracts, and other instruments wherein the said Commissioners shall be so described, and the execution or signature thereof by any two of them, or any person or persons duly authorized to sign for them, shall be as valid as if they or any of them had been expressly named therein, and had executed or signed the same.

Lords Commissioners may sell, exchange, or let land, &c.

5. The Lord High Admiral or the said commissioners, or any two or more of them, or any person duly authorized by him or them, may sell, exchange, or in any manner dispose of or let or demise any of the said lands or property, together with their respective appurtenances vested in them by this Ordinance, either by public auction or private contract, and in due form of law convey, lease, or demise the same respectively to any person, and do all things in relation to such lands or property, or for the

better management thereof, which he or they shall deem beneficial for the public service, which might be done by any person having a like interest in such lands and property.

Lords Commissioners may maintain and defend suits, &c.

6. The Lord High Admiral, or the commissioners aforesaid for the time being, are hereby empowered to bring, prosecute, and maintain any suit or other proceeding at law, for recovering possession of any lands or property by this Ordinance vested in him or them, and to sue for any arrears of rent due in respect thereof, under any demise from the Lord High Admiral or commissioners, or any person on his or their behalf, or on behalf of Her Majesty, and also to bring, prosecute, or maintain, or to defend any other suit in respect of the said lands or property, or any trespass or encroachment committed thereon, or damage or injury done thereto; and in every such suit the said commissioners shall be called "the Commissioners for executing the office of Lord High Admiral of Great Britain and Ireland," without naming them; and no such suit shall abate by the death, resignation, or removal of such Lord High Admiral or of such commissioners, or any of them.

17th September 1862.

123.

No. 2 OF 1862.

An Ordinance to naturalize Wilhelm Friedrick Adolph Hinck.

17th September 1862.

124.

No. 4 OF 1862.

An Ordinance to amend the Ordinance No. 5 of 1861.

Preamble.

WHEREAS it is expedient to amend the Ordinance No. 5 of 1861, intituled "An Ordinance relating to Wrecks, Sea Casualties, and Salvage:" It is enacted as follows:

1. Repealing clause.

Unclaimed wreck in Ceylon.

2. In the event of no owner establishing a claim to wreck found in Ceylon before the expiration of a year from the date at which the same has come into the possession of the receiver, the receiver shall, at the expiration of such year, sell the wreck, and after paying the expenses of the sale, and deducting therefrom his fees and all expenses (if any) incurred by him, and paying to the salvors such amount of salvage as the principal collector of customs may, with the sanction of the Governor in each case, or by any general rule, determine, deposit the balance of the produce

of the sales in the Treasury, that the same may be carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland, in virtue of and in accordance with the provisions of the Act of the first year of Her Majesty, chapter two, " For the support of Her Majesty's household, and of the " honour and dignity of the Crown of the United Kingdom of " Great Britain and Ireland."

3. Has had its effect.

1st October 1862.

125.

No. 7 of 1862.

An Ordinance for the Prevention of Cruelty to Animals.

Preamble.

Whereas it is expedient to prohibit by law the cruel and improper treatment of animals: It is enacted as follows:

Fine for cruelty to animals.

1. Any person cruelly beating, ill-treating, over-driving, abusing, or torturing any animal, or causing or procuring any animal to be cruelly beaten, ill-treated, over-driven, abused, or tortured, shall be guilty of an offence, and liable to a fine not exceeding five pounds.

Animals.

2. For the purpose of this Ordinance the word animal shall be taken to mean and include any elephant, horse, gelding, bull, ox, buffalo, steer, calf, mule, ass, sheep, lamb, hog, pig, goat, dog, cat, cock, capon, duck, goose, chicken, pigeon, or other domestic animal, and also any sea turtle.

Improperly slaughtering or carrying animals.

3. Any person slaughtering, branding, conveying or carrying, or causing to be slaughtered, branded, conveyed or carried, any animal in such a manner or position as to subject such animal to unnecessary pain or suffering, shall be held to be ill-treating, abusing, and torturing such animal within the meaning of this Ordinance.

4. Has had its effect.

1st October 1862.

126.

No. 9 of 1862.

An Ordinance for restricting the use of the Galle Face Burial Ground to the Garrison of Colombo, and to make other provision in respect thereof.

Preamble.

Whereas by two Crown grants, bearing date respectively the sixteenth day of May one thousand eight hundred and twenty-one, and the eighteenth day of November one thousand eight hundred and thirty-five, two allotments of land (now forming the Galle Face burial ground) were granted to certain trustees in trust for the military garrison and other British inhabitants of the fort,

town, and district of Colombo professing the doctrine and discipline of the United Church of England and Ireland, and all who might thereafter belong to the said garrison, or become inhabitants as aforesaid, to be held as a cemetery or burial ground for the interment of the dead according to the rubric of the said United Church, and not to any profane or common use, for ever:

And whereas by a certain other Crown grant, bearing date the first day of December one thousand eight hundred and forty-nine, a certain other allotment of ground, adjoining the allotments above mentioned, was granted to certain other trustees to be used as a burial ground for the interment of all persons professing to be members of the Church of Scotland:

And whereas the said last-mentioned allotment has been found unadapted for the purpose aforesaid, and has never in fact been so used:

And whereas by reason of the increase of British inhabitants since the said first-mentioned two grants were made it is necessary to restrict interments in the said Galle Face burial ground to persons belonging to the European garrison only, including those not professing the doctrines of the said United Church, and for whom no special provision has been made:

It is enacted as follows;

1. The several grants in the preamble mentioned are hereby made and declared to be henceforth null and void. **The trust deeds avoided.**

2. The said two pieces of ground first herein-before mentioned and now forming the Galle Face burial ground shall be held by the commandant of Colombo for the time being, the commanding Royal Engineer for the time being, and the Government Agent for the western province for the time being, in trust to be used as a cemetery or burial ground for the European garrison of Colombo for the interment of the dead according to the rules, rites, and ceremonies in each case of the religious denomination to which any deceased member of the said garrison belonged during his lifetime, to be performed by a minister of the said denomination, and not to any profane or common use, for ever: Provided that in case of any doubt existing as to the denomination to which such deceased member belonged, or in case there be no minister of that denomination, the interment shall be performed by such minister as the commanding officer of the garrison shall direct. **New trusts reserved.**

3. All monies and other property held by the trustees under the aforesaid grants in respect of the said burial ground shall be paid and handed over to the trustees appointed by this Ordinance, and a receipt signed by the last-mentioned trustees shall be a complete discharge for the same. **Monies and property held by former trustees to be handed over to present trustees.**

4. Provided that nothing in this Ordinance contained shall affect the rights of any person who shall have acquired a right to any existing vault or monument in the said burial ground. **Proviso as to existing vaults and monuments.**

5. Has had its effect.

19th November 1862.

127.

No. 10 OF 1862.

An Ordinance to extend the provisions of the Ordinance No. 1 of 1860, and to make Offences against the Indian Act No. 25 of 1859 punishable in Ceylon.

Preamble.

WHEREAS it is expedient to extend the provisions of the Ordinance No. 1 of 1860, entitled "An Ordinance to prevent the "overcrowding of Vessels carrying Passengers in the Gulf of "Manaar and Palk's Straits," and to make offences against the corresponding Indian Act (to wit, the Act No. 25 of 1859, entitled "An Act to prevent the overcrowding of Vessels "carrying Native Passengers in the Bay of Bengal") punishable in Ceylon :

It is enacted as follows :

Penalty on master of unlicensed vessels carrying too many native passengers.

1. The master or tindal bringing to Ceylon native passengers in any vessel without the license required by the said Indian Act, from any port or place under the presidency of Fort St. George, or from Chittagong, or from any port in the province of Orissa, in a proportion greater than one passenger to every four tons of the burden of such vessel, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding two pounds for each passenger in excess of such proportion.

Penalty on masters of unlicensed vessels not acting in accordance with his license.

2. The master or tindal of any licensed vessel which shall bring to Ceylon on any such voyage mentioned in the preceding section, or from any part of the coast of the Gulf of Manaar, or Palk's Straits, to any port or place in Ceylon a greater number of passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding two pounds for each passenger in excess of such number, or for each passenger not provided with accommodation agreeably to the license.

Certain licensed passenger vessels to carry provisions according to appointed scale.

3. The master or tindal of any vessel licensed in India to carry passengers from any port under the Government of Fort St. George, or from Chittagong, or from any port in the province of Orissa, to Ceylon, and who shall have proceeded on such voyage and arrived in Ceylon without having been furnished with provisions and water according to the scale fixed by the collector of sea customs of the port of departure, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding two pounds for each passenger in excess of the number fully supplied with provisions and water according to such scale.

List of passengers to be brought by master to Ceylon.

4. Whereas the said master or tindal of any licensed vessel is required by the said Act to sign and deliver, in duplicate, to the proper officer or person at the port of clearance a list of his passengers, and one such list is returned to him countersigned to be produced by him to the proper officer at the port to which the vessel is bound : If the master or tindal shall not produce to the

proper officer of the port in Ceylon at which such vessel arrives such list of passengers properly signed and countersigned, with the names of the additional passengers who shall have engaged to proceed by such vessel after such list shall be so countersigned added thereto, also properly signed by the controlling officer at the port where such additional passengers are so engaged, he shall be guilty of an offence, and liable, on conviction, to a fine not exceeding five pounds.

Penalty for impeding entry or inspection.

5. The principal officer in charge of the customs at the port at which any vessel shall arrive in Ceylon from any port aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect any passenger vessel so arriving, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding five pounds.

Penalty on landing passenger at a place other than that at which he has contracted to land.

6. If any passenger in any vessel shall be landed at any port or place in Ceylon other than that at which he may have contracted to be landed, unless with his previous consent, or unless such landing is made necessary by the perils of the sea, or other unavoidable accidents, the master or tindal shall be guilty of an offence, and liable, on conviction, to a fine not exceeding twenty pounds.

Offences punishable summarily before a police magistrate.

7. Offences against this Ordinance shall and may be tried by the police magistrate of the district in which the offender is found, notwithstanding that the offence is, as to amount of fine, place, or other circumstances, not within the jurisdiction of that police magistrate. If a person directed to pay any penalty be the master or tindal of a vessel, and the same is not paid at the time and in the manner prescribed by the order of payment, the magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by seizure and sale of the said vessel, her tackle, furniture, and apparel.

Proof of license, list, and scale.

8. The license and list referred to in the first and fourth clauses of this Ordinance, and an official copy of the scale referred to in the third clause, purporting to be signed by the collector of sea customs at the port of departure, with a certificate by the principal collector of customs that the same has been received from the port referred to, shall, without further proof, be deemed *primâ facie* evidence of such documents and of the contents thereof.

Application of penalties.

9. Any police magistrate imposing any penalties under this Ordinance may, if he thinks fit, direct the whole or any part thereof to be applied in compensation to any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

10. Has had its effect.

19th November 1862.

128.

No. 12 OF 1862.

An Ordinance for the Establishment of General Cemeteries.

Preamble.

WHEREAS it is expedient to authorize the establishment of general cemeteries in this Island: It is enacted as follows:

1. Has had its effect.

Short title.

2. This Ordinance may be cited as "The Cemeteries Ordinance, 1862."

Interpretation.

3. In construing this Ordinance the word "cemetery" shall mean any general cemetery established under the provisions of this Ordinance.

Proclamations, &c. to be gazetted.

4. All proclamations, regulations, and public orders made and issued under this Ordinance shall be published in the "Government Gazette."

Establishment of general cemeteries.

5. The Governor may, with the advice and consent of the Executive Council, when to him it shall seem advisable, by proclamation, establish a general cemetery for the burial of the dead within such limits as shall be specified and defined in such proclamation; and from the date of such proclamation this Ordinance shall come into operation within such place and limits.

Other burial grounds to be closed.

6. Whenever a cemetery is established as aforesaid, the Governor may, with the advice and consent of the Executive Council, order that, after a time to be mentioned in the order, burials in all or certain of the burial grounds within such place and limits shall be wholly or partially discontinued.

Burials not to take place after order for discontinuance.

7. After the time mentioned in such order it shall not be lawful to bury in any burial ground or other burial place mentioned in such order; and every person who after such time as aforesaid shall bury, or cause, permit, or suffer any burial contrary to this Ordinance, shall be guilty of an offence, and be liable on conviction to a fine not exceeding twenty pounds.

Closed burial grounds not to be sold or made use of without permission.

8. No land which shall have been consecrated or used for the burial of the dead, and in which burials shall have been discontinued under this Ordinance, shall be sold, disposed of, or made any use of for any purpose whatsoever without the permission of the Governor; and every sale and disposal of such land without the permission aforesaid shall be null and void; and any person making any use of such land without the permission of the Governor aforesaid shall be guilty of an offence, and be liable to a fine not exceeding one hundred pounds for every such offence.

Cemetery not to be within certain distance of houses.

9. No part of any cemetery shall be constructed nearer to any dwelling house than fifty feet, except with the consent in writing of the owner, lessee, and occupier of such dwelling house.

Chapels, &c. may be built.

10. The Governor may, with the advice and consent of the Executive Council, authorize the erection of chapels and other buildings for the performance of burial services within the limits of a cemetery.

General Cemeteries.

11. Every cemetery shall be enclosed by substantial walls or iron railings, of the height of six feet at least, which shall be kept in complete repair.

Cemetery to be enclosed.

12. The Governor may, with the advice and consent of the Executive Council, set apart a portion of any cemetery for the special use of any religious denomination applying for the same.

Appropriation of the cemetery.

13. No part of any cemetery shall be used for any purpose except for the purpose of a cemetery; and any person making any other use of such land except for the burial of the dead, and purposes relative to such burial, shall be guilty of an offence, and liable to a fine not exceeding twenty pounds for every such offence.

Cemetery to be used for burials only.

14. Any clerk in holy orders, minister, priest, or other person may perform the services of his religion, at the request of the executor of the will of any deceased person, or any other person having the charge of the body of any deceased person.

Any minister requested may perform services.

15. No corpse buried in any part of any cemetery shall be removed from its place of burial without the authority of a district court having jurisdiction over the limits thereof: Provided that nothing in this clause shall be taken to limit any powers now existing to order a post-mortem examination for the purposes of the criminal law.

Corpses not to be removed without authority.

16. All burials shall be registered in register books to be kept for that purpose by the keeper of the cemetery herein-after mentioned; and such register books, or certified copies or extracts therefrom, shall be received in all courts as *primâ facie* evidence of such burials; and copies or transcripts thereof shall be from time to time sent to such officer as shall be appointed by the Governor for such purpose.

Burials to be registered.

17. The Governor shall appoint a keeper, grave diggers, and other servants necessary for the care and use of the cemetery, and may pay them such salary, wages, and allowances as he may think fit, and may remove them, or any of them, at his pleasure.

Governor to appoint a keeper, grave diggers, &c.

18. The Governor, with the advice and consent of the Executive Council, may make regulations for ensuring that all burials within the cemetery are conducted in a decent and solemn manner, and that the graves are of a proper depth.

Regulations for ensuring decency, solemnity, and deep graves.

19. No corpse shall be buried in any vault under any chapel or building of the cemetery, or within five feet of the outer wall of any such chapel.

No burials under or close to chapels or buildings.

20. The Governor, with the advice and consent of the Executive Council, may grant portions of the cemetery for the purpose of exclusive rights of burial therein, and may sell, either in perpetuity or for a limited time, and subject to any condition which he may think fit, the exclusive right of burial in any such portions of the cemetery so granted, or the rights of one or more burials therein, and may sell the right of placing any monument or gravestone in the cemetery, or any tablet or monumental inscription on the walls of any chapel or other building within the cemetery.

Portions of the cemetery may be set apart for exclusive burial.

21. The Governor, with the advice and consent of the Executive Council, shall make regulations as to the fees to be paid for the

Fees for burial services, &c.

performance of burial services, for digging graves, and such other services, and all such fees shall be paid to the keeper of the cemetery, to be by him paid into the general treasury as part of the general revenue.

Plan and book of reference.

22. The Governor shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all parts of the cemetery so set apart, and in which an exclusive right of burial has been granted; and all such burial places shall be numbered, and such numbers shall be entered in a book to be kept by the keeper for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted; and no place of burial with exclusive right of burial therein shall be made in the cemetery without the same being marked out in such plan, and a corresponding entry made in the said book; and the said plan and book shall be kept by the cemetery keeper, and shall be open to public inspection at all reasonable hours, on payment of such fee as the Governor, with the advice and consent of the Executive Council, shall appoint.

To be open to inspection.

Form of grant of exclusive burial, &c.

23. The grant of the exclusive right of burial in any part of the cemetery, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, may be made in the form in the schedule to this Ordinance annexed, or to the like effect, and shall be executed by the cemetery keeper in the presence of two witnesses.

Register of grants to be kept.

24. A register of all such grants shall be kept by the cemetery keeper, and within fourteen days after the date of any such grant and entry a memorial of the date thereof and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant, so as the situation thereof may be ascertained, shall be made by the said keeper in such register, and such keeper shall be entitled to demand such sum as the Governor, with the advice and consent of the Executive Council, shall think fit, not exceeding two shillings for every entry or memorial; and the said register shall be open to inspection at all reasonable times by any grantee or assignee of any right conveyed to him, upon payment of the sum of one shilling to the keeper.

Form of assignment.

25. Every assignment of an exclusive right of burial may be in the form in the schedule to this Ordinance annexed, or to the like effect, and shall be valid, if executed before one or more witnesses.

Assignment to be registered.

26. Every such assignment shall within six months after the execution thereof, if executed in Ceylon, or within six months after the arrival thereof in Ceylon if executed elsewhere, be produced to the keeper of the cemetery, and an entry or memorial of such assignment shall be made in the register by the keeper in the same manner as that of the original grant; and until such entry or memorial no right of burial shall be acquired under any such assignment; and for every such entry or memorial the keeper shall be entitled to demand such sum as the Governor,

with the advice and consent of the Executive Council, shall think fit, not exceeding two shillings.

27. No corpse shall be buried in any place wherein the exclusive right of burial shall have been granted, except with the consent of the owner for the time being of such exclusive right of burial.

Exclusive right of burial not to be disturbed without consent.

28. The Governor, with the advice and consent of the Executive Council, may cause to be taken down and removed any gravestone, monument, tablet, or monumental inscription which shall have been placed within the cemetery without his authority.

Removal of monuments improperly erected.

29. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to any cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill thereon or on any wall thereof, or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within any cemetery, or do any other wilful damage therein, shall be liable to a fine not exceeding five pounds.

Penalty for damaging the cemetery.

30. Every person who shall play at any game or sport, or discharge firearms, save at a military funeral, in any cemetery, or who shall wilfully and unlawfully disturb any persons assembled in any cemetery for the purpose of burying any corpse therein, or who shall commit any nuisance within any cemetery, shall be liable to a fine not exceeding five pounds.

Penalty on persons committing nuisances in the cemetery.

31. Any person committing any breach of any regulation made in virtue of this Ordinance shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Breach of regulations.

SCHEDULE.

Form of Grant of Burial Place in Cemetery.

Whereas by an order of Government, dated the day of , A.D. , issued under the "General Cemeteries Ordinance, 1862," a general cemetery was established at , of which I the undersigned am the cemetery keeper.

Now I, in consideration of the sum of paid to me by , of , do as such cemetery keeper as aforesaid, and under the provisions of the said Ordinance, hereby grant unto the said the exclusive right of burial in (*here describe the ground intended to be granted*) to hold the same to the said for ever for the purposes of burial.

Given under my hand this day of , in the year of our Lord

Form of Assignment of Right of Burial.

I, *A.B.*, of , in consideration of the sum of £ paid to me by *C.D.*, of , do hereby assign unto the said *C.D.* the exclusive right of burial in (*here describe the place*), and numbered on the plan of the cemetery made in pursuance of the "General Cemeteries Ordinance, 1862," which was granted to me for ever by a grant bearing date the day of , and all estate, title, and interest therein, to hold the same unto the said *C.D.* for ever, subject to the conditions to which I held the same immediately before the execution hereof.

Witness my hand this day of

3rd December 1862.

129.

No. 14 of 1862.

An Ordinance for the Prevention of Accidents by Gunpowder.

Preamble.

Whereas large quantities of gunpowder are held by private dealers and others, in boutiques, dwelling houses, and other places in this island, stowed in a manner very dangerous to the public safety, and it is expedient to make provision for the safe stowage of such gunpowder in public magazines, and other regulations in respect thereof: It is enacted as follows:

1. Repealing clause.

Interpretation clause.

2. The word gunpowder shall be taken to include blasting powder and explosive mixtures used in fireworks.

Public gunpowder magazine.

3. The Governor may, with the advice and consent of the Executive Council, erect gunpowder magazines, and by proclamation in the "Government Gazette" may declare any such or any other magazine to be a public gunpowder magazine for any district, the limits of which district shall be set forth and defined in such proclamation.

Governor may make regulations and prescribe fees.

4. The Governor may, with the advice and consent of the Executive Council, make regulations prescribing the rent and other fees to be paid for the use of any public magazine, and providing for the proper management thereof, the storage therein and removal therefrom of gunpowder, and all other matters relating thereto; and the said regulations shall be published in the "Government Gazette," and shall thereupon become as legal, valid, and effectual as if the same had been inserted herein.

Gunpowder to be deposited in public magazine.

5. Any person may deposit gunpowder in a public gunpowder magazine, subject to the regulations herein authorized to be made in respect of such magazines.

Accidents by Gunpowder.

6. From the date of any magazine becoming by any such proclamation a public gunpowder magazine for any district, it shall not be lawful for any person to hold, keep, or possess at any one time, in any place or places within such district, other than such public gunpowder magazine, more than a hundred pounds of powder in all, that is to say, fifty pounds in bulk, and fifty pounds in one pound metal canisters; and all gunpowder not kept in canisters shall be in barrels close joined and hooped, without any iron about them, and properly secured.

Possession of more than one hundred pounds of powder, except in the magazine, unlawful.

7. From and after the enactment of this Ordinance it shall not be lawful for any person to convey at any one time more than 500 pounds of gunpowder (except in vessels with gunpowder imported from, or to be exported to, any place beyond the sea, or going coastwise, or when transported under military escort, or by license from the Governor); and all gunpowder conveyed on land or water (except in such vessels for importation or exportation of gunpowder, or going coastwise) shall be in barrels close joined and hooped, without any iron about them, and properly secured.

Removal of gunpowder.

8. From and after the enactment of this Ordinance it shall not be lawful for any person to sell gunpowder in any district proclaimed under this Ordinance, unless he shall have previously obtained a license from the Government Agent of the province in which such district is situated, or some Assistant Government Agent thereof.

Gunpowder not to be sold without a license.

9. It shall be lawful for such Government Agent or Assistant Government Agent to grant license to any person who may apply for the same to deal in gunpowder; and such license shall be written or printed on a stamp of ten shillings, and shall be substantially of the form in the schedule to this Ordinance annexed; and the Government Agent may at any time recall and put an end to such license, should he see fit so to do.

Government Agent or Assistant Agent to grant licenses.

To recall licenses.

10. Any person committing any act contrary to this Ordinance or declared to be unlawful, or any breach of any regulation made in virtue hereof, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding five pounds; and any powder beyond the quantity hereby allowed to be kept or removed, and any powder not kept or removed in the manner herein prescribed, and the vessels in which such gunpowder are found, shall, upon the conviction of the offender, be forfeited to and for the use of Her Majesty.

Offences.

11. It shall be lawful for any justice of the peace empowered to act within any district in which gunpowder is suspected to be kept or carried contrary to this Ordinance, on demand made and a reasonable cause assigned upon oath by any person or persons, to issue a warrant for searching any premises or any carriage or vessel in which such gunpowder is suspected to be kept or carried contrary to this Ordinance; and all gunpowder found upon such search to be so kept or carried, and also the barrel, canister, or other vessel holding the said gunpowder, shall be immediately seized by the searchers, who shall with all convenient

Houses, &c. may be searched for gunpowder.

speed after the seizure remove such gunpowder to the nearest public gunpowder magazine in the district.

12. Has had its effect.

SCHEDULE.

I, *A.B.*, Government Agent (*or* Assistant Agent, *as the case may be*) of province (*or* of district, in province, *as the case may be*) hereby license *C.D.*, boutique keeper (*or of any other business*), to sell gunpowder under the provisions of Ordinance No. 14 of 1862, entitled "An Ordinance for the Prevention of Accidents by Gunpowder."

day of A.D. 186 .

(Signature) *A.B.*

3rd December 1862.

130.

No. 15 OF 1862.

Preamble.

An Ordinance for the better Preservation of public Health and the Suppression of Nuisances.

WHEREAS it is expedient to make further and more effectual provision for the preservation of the public health and for suppressing nuisances: It is enacted as follows:

Certain acts made offences.

1. Whosoever shall commit any of the following offences shall be liable to a fine not exceeding five pounds:

Keeping a house, &c. in a filthy state.

(1.) Whosoever, being the owner or occupier of any house, building, or land in or near any road, street, or public thoroughfare, whether tenantable or otherwise, shall keep or suffer the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, so as to be a nuisance to or injurious to the health of any person.

Having foul and offensive drains.

(2.) Whosoever shall have in or upon any house, building, or land occupied by him any foul or offensive ditch, gutter, drain, privy, cesspool, or other receptacle.

Keeping an accumulation of dung, &c.

(3.) Whosoever, being the occupier of a house, building, or land in or near any road, street, or public thoroughfare, shall keep or allow to be kept for more than twenty-four hours, otherwise than in some proper receptacle, any accumulation of dung, offal, filth, refuse, or other noxious or offensive matter, or suffer such receptacle to be in a filthy or noxious state, or neglect to employ proper means to remove the filth therefrom, and to cleanse and purify the same.

Nuisances.

(4.) Whosoever shall keep in or upon any house, building, or land occupied by him any cattle, goat, swine, or other animal, so as to be a nuisance to or injurious to the health of any person. Keeping cattle, goats, swine, &c.

(5.) Whosoever, being the owner of a house, building, or wall, shall allow the same to be in a ruinous state, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or to the occupiers thereof, or to passengers. Allowing house, &c. to be in a state ruinous or likely to fall.

(6.) Whosoever shall suffer any waste or stagnant water or other matter to remain in any place within the premises occupied by him, or shall allow the contents of any privy or cesspool to overflow or soak therefrom. Suffering waste or stagnant water to remain, &c.

(7.) Whosoever shall throw, put, or cast, or cause to enter in any stream, tank, reservoir, well, cistern, conduit, or aqueduct any dead animal, or any dirt, rubbish, filth, or other noisome or offensive matter or thing, or shall cause or suffer to run, drain, or be brought thereinto any unwholesome or offensive liquid, matter, or thing, or flowing from any house or building, or from any ground occupied by him, or shall do anything whereby any such water shall be in any degree fouled or corrupted. Casting animals, dirt, &c. in streams.

(8.) Whosoever shall keep in any market, shop, building, stall, or place used for the sale of butchers' meat, poultry, fish, fruit, or vegetable, or expose or shall allow to be exposed for sale in any place or way any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable which is unfit for the food of man. Exposing for sale unwholesome meat, &c.

(9.) Whosoever shall sell or offer or expose for sale as food or drink for man any article which has been rendered or has become noxious or unfit for such use, knowing or having reason to believe the same to be noxious or unfit for such use. Selling noxious articles as food.

(10.) Whosoever shall keep any manufactory or place of business from which offensive or unwholesome smells arise, without a license for that purpose, as provided in the fourth section. Keeping manufactories without license.

(11.) Whosoever shall keep or deposit any cocoanut husks, coir, or any other substance at or near such places, or in such a manner as to be a nuisance to or injurious to the health of any person. Depositing cocoanut husks, &c.

(12.) Whosoever shall throw or put, or permit his servants to throw or put, any earth, dirt, ashes, filth, refuse from any garden, kitchen, or stable, or any broken glass or earthenware, or other rubbish, on any street, road, or public place or passage, or into any sewer or drain. Throwing dirt, &c. on roads, or into sewers.

2. Whosoever shall continue or suffer to continue any of the nuisances above specified, after being convicted of any of the above offences, or after notice in writing prior to any conviction from the Board of Health, or any of its officers, or from the Notice to the owner or occupier to abate the nuisance.

police magistrate, requiring him to abate or put an end to the same, shall be liable to a further fine not exceeding one pound for each day after such conviction or notice. And the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

Markets may be visited, and unwholesome meat seized and destroyed.

3. Any person authorized by the Board of Health may, and he is hereby empowered, at all reasonable times, with or without assistants, to enter into and inspect any market, building, shop, stall, or place used for the sale of butchers' meat, poultry, fish, fruit, or vegetable, or as a slaughter-house, and to examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable which may be therein; and in case any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized and conveyed to the nearest magistrate; and if it appear to such magistrate, upon the evidence of a competent person, that any such animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable was intended for the food of man and is unfit for such food, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food.

What manufactories must be licensed.

4. No place shall be used within the limits of a town for the purposes of a manufactory or place of business from which offensive or unwholesome smells arise, except under a license from the Government Agent of the province, or Assistant Government Agent of the district within which such manufactory or place of business is used, who is hereby empowered at his discretion from time to time to grant such licenses, and the same, with the sanction of the Governor, to recall; and the license shall be on a stamp of two pounds, and shall be substantially of the form in the schedule to this Ordinance appended.

Board of Health may make byelaws.

5. The Board of Health for each province may make byelaws with respect to the removal by the owners and occupiers of houses of dust, ashes, rubbish, filth, manure, dung, and soil collected, placed, or found in or about any house, stable, cowhouse, street, or place whatsoever, and for preventing the deposit thereof in or by the side of any street so as to be a nuisance to any person.

And for the draining, cleansing, covering, or filling up all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial to health.

And for the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, churches, and places of assembly by the owners or occupiers and persons having the care and ordering thereof.

And also for the preventing or mitigating any epidemic, endemic, or contagious diseases, and for the speedy interment of the dead during the prevalence of such diseases.

And all other provisions as are not specially enacted by this Ordinance, and as shall be necessary for the preservation of the public health and the suppression of nuisances.

Provided that no such byelaws shall be repugnant to the provisions of this Ordinance, and the same shall not be of any force and effect unless and until the same be submitted to and confirmed by the Governor and the Executive Council, who are hereby empowered to allow, amend, or disallow the same as they may think proper, and published in the "Government Gazette:" Provided also, that the said Board of Health may, with the sanction of the Governor and the Executive Council, alter or repeal any such byelaws.

Byelaws to be taken judicial notice of.

6. All courts and magistrates shall take judicial notice of such byelaws, when the same shall have been confirmed and published as aforesaid.

Short particulars of offences and penalties to be published.

7. The Board of Health shall cause short particulars of the several offences for which any penalty is imposed by this Ordinance, or of any byelaw made under this Ordinance, and of the amount of every such penalty, to be printed in the English and in the vernacular languages chiefly in use, and copies thereof to be circulated so as to secure due publicity to the same.

Breach of byelaws made an offence.

8. Any breach of byelaws so made as aforesaid shall be deemed an offence, and the person guilty thereof shall, on conviction, be liable to a fine not exceeding two pounds, and in the case of a continuing offence a further fine not exceeding the sum of ten shillings for each day after conviction for the original offence, or after written notice from the Board of Health, or any officer thereof in its name, or from the police magistrate, calling upon him to remove the same; and the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

Other nuisances not affected by this Ordinance.

9. Nothing in this Ordinance shall be construed to render lawful any act or omission on the part of any person which is, or but for this Ordinance would be, otherwise deemed to be a nuisance, or to exempt any person guilty of such nuisance from prosecution or action in respect thereof.

Service of notices.

10. Where any notice is required by this Ordinance to be given to the owner or occupier of any building or land, such notice addressed to the owner or occupier, as the case may require, may be served on the occupier of such building or land, or left with some adult member or servant of his family, or, if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such building or land, and it shall not be necessary in any such notice to name the occupier or the owner.

Board of Health or magistrate may abate nuisances.

11. If at any time it shall appear to the Board of Health or to the police magistrate that a nuisance ought to be abated, or any work or thing required by this Ordinance or by any byelaw to be performed or done, such board or magistrate may give notice to the owner or occupier, as the case may be, requiring him to get such nuisance abated, or such work or thing performed or done, within such time as the Board of Health shall deem reasonable; and if after such notice default is made in the removal of the

nuisance or the performance of such work, or in the doing of such thing, the Board of Health or police magistrate, whether any penalty is or is not provided for such default, may cause such nuisance to be removed or work to be performed or such thing to be done, and the expense thereby incurred, if not paid by the owner or occupier, or any person on his behalf, shall, when notified to the police court by the person entrusted with the performance of such work or the doing of such thing, and proved to be reasonable by the evidence of two or more competent persons, be recovered as any ordinary fine imposed by the court.

Occupier may execute works in default of owner.

12. Whenever default is made by the owner of any land in the execution of any work required to be executed by him, the occupier of such land may cause such work to be executed, and the cost thereof shall be paid to him by the owner.

Occupier executing works for owners may deduct his expenses from the rent.

13. Whenever the occupier of any land shall be put to any expense or pay any money for anything required under this Ordinance which is payable by the owner, being the defaulter, such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses, and he shall have a right to retain possession of such house until such expenses are paid or tendered to him.

Course if occupier obstruct owner.

14. If the occupier of any land prevent the owner thereof from carrying into effect any of the provisions of this Ordinance after notice of his intention so to do has been given by the owner to such occupier, any police magistrate, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works as may be necessary for carrying into effect the provisions of this Ordinance ; and if after the expiration of eight days from the date of the order such occupier refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a fine not exceeding two pounds ; and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Power to enter into lands.

15. The Board of Health or police magistrate shall, for the purposes of this Ordinance, have power by themselves or their officers to enter at all reasonable hours in the daytime into and upon any land, for the purpose of inspecting the same or removing any nuisance or executing any work authorized by this Ordinance, without being liable to any legal proceedings or molestation whatever on account of such entry, or of anything done in any part of the land in pursuance of this Ordinance.

Obstruction of Board of Health or magistrate, or their officers.

16. Whoever at any time shall obstruct or molest the Board of Health or police magistrate or any of their officers, or workmen, or any person employed by them in the performance and execution of their duty, or of anything which they are respectively empowered or required to do by virtue or in consequence

of this Ordinance, shall be guilty of an offence, and liable, on conviction, to a fine not exceeding five pounds.

17. The magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion not exceeding one half thereof to the informer. Informer's share.

18. No person shall be liable to any fine for any offence committed under this Ordinance, unless the complaint respecting such offence shall have been made before a magistrate within three months next after the commission of such offence. Limitation of prosecutions.

19. It shall be the duty of all officers of the police force, and of all headmen, police and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdiction ; and any officer or headman who being cognizant of any such offence, whether upon his own view or upon the information of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds. Police officers to assist.

20. In construing this Ordinance the terms "Board of Health" and "police magistrate" shall be respectively held to mean the Board of Health of the province, or the police magistrate of the district, within which the nuisance exists, or any work or thing has to be performed or done. Interpretation clause.

21. This Ordinance may be cited as the "Nuisances Ordinance, 1862." Short title.

22. Has had its effect.

SCHEDULE.

A.B. of is hereby empowered to keep a manufactory or place of business for at

C.D.

Date. Government Agent for the Province

or

Assistant Government Agent for the District of

10th December 1862.

131.

No. 17 OF 1862.

An Ordinance to ascertain the Proportion of Mortality amongst the Natives of India employed in agricultural and other Labour in Ceylon.

Preamble.

WHEREAS it is expedient to ascertain the proportionate amount of deaths occurring amongst the natives of India employed in agricultural or other than domestic labour in Ceylon: It is enacted as follows:

Interpretation.

1. In construing this Ordinance the word "employer" shall be taken to mean any person actually employing Indian coolies, and possessing the chief supervision and disposal of their services and labour. The words "Indian coolie" shall be taken to mean any Indian native, male or female, employed in agricultural or other than domestic labour.

Employers to make returns.

2. Every employer of Indian coolies shall, on the 31st day of March, on the 30th day of June, on the 30th day of September, and on the 31st day of December of each year, make a return to the Government Agent of the province in which he employs such coolies, or to some other officer appointed by the Governor for that purpose, of the following particulars; that is to say,

The number of male Indian adults, the number of female Indian adults, and the number of Indian children, then in his employ or on the property in his charge.

The number of male Indian adults, the number of female Indian adults, the number of Indian children, who shall have died in his employment, or on the property in his charge, during the three months ending on the days aforesaid.

The name, sex, age, ascertained or supposed, of each person so deceased, the name of his village, and the probable cause of death.

Provided that if any of the aforesaid days should be a Sunday or public holiday, the said return shall be made on the next following day, not being a public holiday; and every such return shall be, as near as is material, in the form in the schedule to this Ordinance annexed.

Power to examine employers, &c.

3. The said Government Agent or such other officer as aforesaid may, when and as often as he shall deem it necessary for the purpose of testing any return, summon and call before him such persons as he shall think fit, and examine them touching matters concerning and connected with the truth and correctness of any return, and call for such documents and other evidence as he may deem necessary for the purpose aforesaid.

Penalties on persons not making returns, producing

4. Any person refusing or neglecting to appear before the Government Agent or such other public officer as aforesaid when summoned, or refusing or neglecting to make any return by this Ordinance required to be made in the terms and within the periods

herein specified, or refusing or neglecting to produce before the Government Agent or such other officer as aforesaid any such documents and other evidence as he shall have been lawfully required to produce, or refusing to answer any question lawfully put to him by the Government Agent or such other officer as aforesaid, shall for every such refusal or act of neglect be guilty of an offence, and on conviction thereof be liable to a fine not exceeding five pounds.

papers, or answering.

5. Any person negligently or wilfully and knowingly making any incorrect return shall be guilty of an offence, and on conviction thereof shall be liable to a penalty not exceeding five pounds, and to imprisonment, with or without hard labour, for any period not exceeding three months.

Penalty for making a false return.

6. Any person wilfully and knowingly giving any false answer to any question lawfully put to him by the said Government Agent or such other officer as aforesaid shall be guilty of wilful and corrupt perjury.

Persons answering falsely guilty of perjury.

7. Whenever the Government Agent or such other officer as aforesaid shall test the truth of any such return by the documents and examinations aforesaid, it shall be lawful for him to correct such return.

Returns may be corrected.

8. The Government Agent or such other officer as aforesaid shall forward all returns when examined by him, or if the same be incorrect when corrected by him, with a note thereon signed by him notifying that the same have been examined, or examined and corrected by him, to the Colonial Secretary, who shall, so soon as convenient, publish or cause to be published in the "Government Gazette" a general abstract of the returns sent in for any one quarter in such form as the Governor, with the advice of the Executive Council, shall from time to time require; and an annual general abstract of all such returns for each year shall be laid before the Legislative Council.

Returns to be sent to Colonial Secretary.

General abstracts to be published.

9. So much of each penalty recovered under this Ordinance (not exceeding one moiety) as the court before which such penalty shall be recovered shall award shall be paid to the informer.

Application of penalties.

10. Has had its effect.

SCHEDULE REFERRED TO.

RETURN (as required by Ordinance No. 17 of 1862) for the Quarter ending 186 .

Kaduganava Estate, Central Province.

Number of Coolies in employ (or on the Property) on the last Day of the Quarter.		Names of Coolies who have died during the Quarter.	Sex.	Name of Village.	Age, supposed or ascertained.	Probable Cause of Death.	Remarks.
Male adults - -	108	*Mooniandy* - -	*Male* -	*Cudappah* -	45 *years* -	*Dysentery.*	
Female adults - -	20	*Ramasamy* - -	*Male* -	*Kailpatnam* -	21 „ -	*Drowned whilst bathing.*	*Inquest held by A.B., Deputy Coroner.*
Children - - -	15	*Tangamma* - -	*Female*	*Ditto* - -	20 „ -	*In childbirth.*	
		Carpen - - -	*Male* -	*Kaduganava* -	15 *days* -	*Convulsions.*	
		An infant (no name) -	*Female*	*Ditto* - -	1 *day* -	*Unknown, died within an hour of birth.*	

I, *William Jones*, hereby declare that the above return is true and correct to the best of my knowledge and belief.

William Jones,

13th December 1862. Superintendent Estate 1863.

132.

No. 19 OF 1862.

An Ordinance for raising 1,000,000*l.* sterling on Debentures for the Construction of a Railway from Colombo to Kandy.

WHEREAS it is expedient that a railway from Colombo to Kandy should be constructed by Her Majesty's Government in this Colony, and it is necessary to provide funds for the purchase of such lands, materials, and other things, and for the construction of such works as may be required for and in connection with the said railway : It is enacted as follows : Preamble.

1. Has had its effect.

2. It shall be lawful for the Government of Ceylon to raise for the purchase of such lands, materials, and other things, and for the construction of such works as may be required for and in connection with the said railway, upon debentures to be issued by the said Government, any sum or sums of money not exceeding in the whole one million sterling. Power to borrow money not exceeding 1,000,000*l.*

3. Each debenture shall be for a sum not less than one hundred pounds, to be paid off at par at the expiration of such period as the Governor shall deem expedient, and as shall be named in the said debenture, such period in no case being less than seven years or more than twenty-one years. And each debenture shall bear interest at a rate not exceeding six pounds per centum per annum, payable half-yearly, in manner herein-after provided ; and shall be issued in the form in the schedule to this Ordinance annexed, and shall be signed on behalf of the Government of Ceylon by the Agents General for Crown Colonies in London for the time being, or by such public officer or officers as may be appointed by Her Majesty's Principal Secretary of State for the Colonies for the time being for that purpose ; and any public notice in the "London Gazette" of such appointment shall be deemed and held sufficient evidence thereof. Debentures. Interest upon, and form of debentures.

4. To each debenture shall be attached coupons in the form in the schedule to this Ordinance annexed, signed by either of the said Agents General, or by any one of the public officers aforesaid. The coupons shall be for the payment of the half-yearly interest, and shall correspond in number to the number of half-yearly payments of interest to be made in respect of each debenture ; they shall be numbered successively, beginning with number one. Number one shall be made payable at a date six months subsequent to the date of the debenture, and the other coupons each at a date six months later than the date of the coupon immediately prior to it in order. Coupons.

5. Each debenture, and all right to and in respect of the principal money secured thereby, and each coupon, and all right to the interest payable in respect thereof, shall be transferable by Debentures and coupons transferable by delivery.

delivery, and the principal monies secured by such debenture, and the interest payable in respect of such coupon, shall be payable in London at the office of the agent to be appointed for that purpose by the said Secretary of State.

Registration of debentures.

6. Each debenture shall, before being issued, be registered in a register book, to be kept by a person appointed for that purpose by the said Secretary of State, and upon being so registered shall be indorsed by him as registered.

Government may contract.

7. It shall be lawful for the said Secretary of State for the Colonies, for and on behalf of the Government of Ceylon, to appoint any agent to sell the debentures or any number thereof, or to contract with any person, or any body politic or corporate (for a commission or a reward, but free of all other costs and charges to the Colony), for the issue of the debentures or any number thereof; or if to the said Secretary of State it shall appear expedient to sell the whole or any number of such debentures to any person, or any body politic or corporate, for a price not below par.

Principal monies and interest charged on the revenues of Ceylon.

8. All debentures and coupons issued under this Ordinance, and the principal monies and interest respectively secured thereby, shall be charged on, and be payable out of, the revenue of the Island of Ceylon, in the like manner as other liabilities incurred on account of the Government of the said Island.

Application of money borrowed.

9. The money borrowed under the authority of this Ordinance shall be applied exclusively in and about the purchase of such land, materials, and other things, and the construction of such works as may be required for and in connection with the said railway.

Debenture to be paid to bearer when due.

10. Upon the expiration of the period fixed for the payment of any debenture, the sum mentioned in the same shall, on demand, be paid to the bearer thereof.

11. Repealed.

SCHEDULE.

Form of Debenture.

Government of Ceylon.

Debenture.

No. The day of 186 £

The Government of Ceylon promises to pay the bearer hereof at the office of pounds on the day of 18 being money borrowed under the authority of the Ordinance No. 19 of 1862, intituled "An Ordinance for raising one million sterling on "debentures for the construction of a railway from Colombo to "Kandy."

By order,

Registered. *C.D.*

A.B. *E.F.*

Office. Office.

Form of Coupon.

Government of Ceylon.

Coupon.

No. The day of 186 £

The Government of Ceylon promises to pay the bearer pounds at on the day of 18 being interest due on the debenture

No. for the six months ending on that day.

By order,

C.D. or *E.F.*

Office.

29th December 1862.

133.

No. 1. of 1863.

An Ordinance to confirm and ratify a Contract entered into between the Agents General for Crown Colonies and William Frederick Faviell, for the completion of the Railway between Colombo and Kandy.

Preamble.

Whereas articles of contract for the completion of the railway between Colombo and Kandy have been entered into between the Government of the Island of Ceylon by Penrose Goodchild Julyan and William Charles Sargeaunt, Agents General for Crown Colonies, acting for and on behalf of the said Government, of the one part, and William Frederick Faviell, contractor for public works, of the other part, and it is expedient that such articles of contract should be confirmed and ratified by Ordinance: It is enacted that the articles of contract in the Schedule to this Ordinance annexed shall be and the same are hereby confirmed and ratified.

SCHEDULE.

Ceylon Railway contract.

Articles of contract made the second day of February in the year of our Lord one thousand eight hundred and sixty-three, between the Government of the Island of Ceylon by Penrose Goodchild Julyan and William Charles Sargeaunt, both of Adelphi Terrace, London, Esquires, Agents General for Crown Colonies, acting for and on behalf of the said Government, of the one part, and William Frederick Faviell, of Down Place, Guildford, in the county of Surrey, contractor for public works, and herein-after called the contractor, of the other part. Whereas the construction of a railway between Colombo and Kandy, in the Island of Ceylon, was some time since commenced by a company constituted for that purpose, but by an arrangement recently made between the said

Government and the company the said works have been handed over to the Government, together with the plant and materials thereon or provided for the same, both in Ceylon and England; and whereas the said Government, being desirous of completing such railway, have duly authorized the said Penrose Goodchild Julyan and William Charles Sargeaunt as their agents to enter into a contract for the completion thereof; and whereas with a view of obtaining such contract surveys have been made, and a general specification has been prepared on behalf of the said Government, and a copy of such specification as finally settled is given in the first Schedule to these presents; and whereas the said contractor lately offered to make and complete the said railway in accordance with the terms of the said specification, and a copy of such offer is given in the second Schedule hereto, and the same was accepted by the said Government, and it was agreed between them that these presents should be entered into by way of contract accordingly; and whereas it has also been agreed that the said contractor shall secure the due performance of the said contract by the joint and several bonds of himself and Jeremiah Bourn Faviell and Frederick Appleby as sureties for him the said contractor in the penal sum of 20,000*l.*

Now, therefore, these presents witness that the said contractor, so far as regards such part of this contract as is to be fulfilled by him or on his part, doth hereby for himself, his heirs, executors, and administrators, covenant and agree with the said Penrose Goodchild Julyan and William Charles Sargeaunt, and each of them, their and each of their executors, administrators, and assigns, and also as a separate covenant with the said Government, their successors and assigns, and the said Agents General do hereby, in pursuance of the powers them in that behalf enabling on account of the said Government, contract and agree with the said contractor, his executors, administrators, and assigns, in manner following; that is to say:

Interpretation of terms.

Article 1. The Schedules to these presents shall be deemed part of these presents, and the expression "the contract" therein as well as in these presents shall mean and include the said William Frederick Faviell, his heirs, executors, administrators, and licensed assigns; the expression "the railway" herein and in the Schedules hereto refers to the intended railway mentioned in the specification; the expression "the Agents General" means the said parties hereto of the first part, and the survivor of them, or other the persons or person for the time being authorized by Her Majesty's Secretary of State for the Colonies to act as Agents General for the said colony; the expression "the Government" means the Government for the time being of the said Island of Ceylon, and every certificate given or signed by the Colonial Secretary for the time being of such Government or person lawfully acting as such Colonial Secretary shall be conclusive evidence of every order, decree, and appointment of the said Government; and all notices on behalf of the Government may be given by him as well as by the Agents General and engineer, and everything done in execution or pursuance of this contract under the written

authority of the Secretary of State for the Colonies in England, or of the Governor, or such Colonial Secretary, or person lawfully acting as such, shall be deemed to have been done by the Government; the expression "the consulting engineer" means the engineer for the time being appointed by the said Government to act as such consulting engineer in the matter of this contract, who shall be appointed in the manner herein-after in that behalf provided; all notices to be given to the contractor for the purpose of this contract shall be in writing under the hand of the Colonial Secretary of the said Government, or person lawfully acting as such Colonial Secretary as aforesaid, or of the Agents General or one of them, or of the consulting engineer or his agent, or of the chief resident engineer or his agent, and shall either be delivered to the contractor personally, or left for him with one of his agents or foremen at the works, or with such person and at such places as he shall name and appoint in Ceylon and London, upon whom and where such notices may also be served, or failing such appointment, at some office on the said works in Ceylon, or at Down Place near Guildford, in the county of Surrey, at the option of the Government.

Notices, how to be served.

2. The Government may from time to time appoint a chief resident engineer in Ceylon to represent them there for the purposes of this contract.

Chief resident engineer may be appointed by the Government.

3. The consulting engineer and the chief resident engineer may from time to time respectively delegate to assistants to be named by them such of the powers and authorities respectively vested in them for the general purposes of this contract as they with the consent of the Government may think fit, and the contractor will recognize such assistants on written notice of their appointment as lawfully exercising for the purposes of this contract the powers and authorities so delegated.

Consulting engineer and chief resident engineer may delegate powers to their assistants.

4. Every certificate in writing of the consulting engineer or the chief resident engineer, given under his hand for any of the purposes of this contract, shall be binding and conclusive on the Government and on the Agents General and contractor, and shall be final except where otherwise provided by these presents, and save only that either of them by any subsequent certificate given for the purposes of this contract may make any rectification which he thinks necessary and proper of all or any of his prior certificates.

Certificates of consulting engineer and chief resident engineer to be binding on Government.

5. The expression "the engineer" herein and in the schedules hereto means and includes the consulting engineer for the purposes of matters and work in England, and the chief resident engineer for the purposes of matters and work in Ceylon respectively.

Interpretation of the term "the engineer."

6. The contractor shall well and substantially, and in a good, lasting, and workmanlike manner, and with the best materials and workmanship, construct, execute, and complete the railway and works mentioned in the specification as a single line of railway, and shall construct and lay down a single line of rail thereover, and shall construct and execute and complete such railway and works, with all requisite excavations and embankments,

Contractor to construct and complete railway.

tunnels, earthworks, diversions of roads, rivers, canals, streams, drains, bridges, approaches, culverts, retaining walls, brickwork, ironwork, masonry, concrete, piling, asphalte, permanent way, sidings, stations, station houses, fencing signals and works, accessories and conveniences whatsoever, temporary or permanent, necessary or which shall by the engineer be required for forming and constructing the said railway and works complete in accordance with the directions and conditions contained or referred to in the said specification and these presents respectively, or with the plans, instructions, and specifications from time to time hereafter to be furnished or given ; and shall at his own cost provide all and every kind of labour, stone, bricks, timber, ironwork, building and other materials, waggons, barrows, and beasts of labour, planks, scaffolding, centering, temporary rails or trams and sleepers, engines, implements, tools, and plant respectively described or referred to or implied in the aforesaid specification, or which shall in the opinion of the engineer be required for the due execution, construction, or completion of all or any of the works hereby undertaken to be executed, constructed, or made, and shall abide by, perform, and fulfil all the requisitions, conditions, and directions in the specification contained.

Contractor to provide materials.

Customary accommodation works to be executed by contractor.

7. All customary and proper accommodation works rendered necessary by the construction of the railway shall be executed by the contractor as part of the guaranteed contract; but this shall not be understood to require of him new or improved accommodation works of which the necessity is not caused by interference with existing communications or accommodations.

Contractor to employ competent persons, &c.

8. The contractor shall at all times during the progress of the said works provide and employ constantly upon the said works, and also in the supervision of materials provided in Europe, such or so many competent and responsible foremen to inspect, superintend, and direct the same as the engineer shall from time to time require and approve, to whom application may be made and direction given in all matters touching the works hereby contracted for, and also such number of experienced and in all other respects proper and fit agents and overlookers for the efficient conduct of the works as shall in the opinion of the engineer be adequate for the due completion of this contract.

Contractor to pay workmen in the manner approved by engineer.

9. The contractor shall pay all workmen employed by him in or about the works at periods approved by the engineer and in manner sanctioned by the engineer, as in accordance with the usages of the country.

Railway to be completed by 1st February 1867.

10. The whole of the said railway and works with their accessories, as contemplated or implied in the contract and specification, and including such modifications thereof as may be made under the contract and specification, shall be completed within four years from the date of this contract: Provided always, that if the act of God, war, insurrection, rebellion, non-possession of land, or any extraordinary and unforeseen circumstances which may in the opinion of the consulting engineer be beyond the control of the contractor, shall in such consulting engineer's opinion cause unavoidable delay, it shall be in his power to extend the time of

completion. In the event of the whole of the works not being completed in all respects fully fit for traffic within the period above named, or within such further or extended period or periods as the said consulting engineer shall name in writing, the contractor shall forfeit and pay to the Government the sum of 2,500*l.* for every calendar month or part of a month after the expiration of such period or periods in which the whole of the works may not be completed, such monthly sum to be paid and recovered as and for liquidated damages, and not in the way of penalty; and it is agreed that the Government shall be at liberty to deduct or set off the same from or against any monies to be paid to him under this contract.

Contractor to execute works under the control of engineer.

11. The contractor shall execute all the works hereby contracted to be executed under the immediate inspection and control of the engineer, and in such order and manner as the engineer shall direct, and in so doing shall comply with all local acts, usages, and laws.

Contractor not to occupy land without sanction of engineer.

12. The contractor shall not enter upon or occupy or use any land, whether required for the railway and works or for the temporary purposes thereof, without the previous sanction in writing of the engineer.

Contractor to fence, &c.

13. The contractor shall take all necessary precautions by fencing, lighting, watching, or otherwise, to protect the public from injury, and the adjoining lands from trespass, during the progress of the said works.

Contractor not to interfere permanently with public or private roads, &c.

14. The contractor shall not in the execution of any of the works or otherwise injure or permanently interfere with the free use of any public or private road or footpath further than may be indicated and allowed by the engineer, and in constructing the said railway and works across public roads or across any other roads or paths; and in every other case where any such injury or interference shall unavoidably or otherwise happen, the contractor shall observe and be bound by the directions relative to the crossing of roads, streets, and highways of any law or usage in the said Island, and will be solely answerable for every such injury, obstruction, and interference, and shall save harmless and indemnify the Government from all losses, expenses, claims, and demands on account thereof, and in carrying any materials or otherwise passing across, over, or under any road or path, whether permanent or temporary, every necessary precaution shall be taken by the contractor to avoid injuring or interfering with the use of the same, and he shall save harmless and indemnify the Government from all losses, damages, expenses, claims, and demands on account or in consequence thereof, or in consequence of any injury to the owners or occupiers of land, or other parties, from the failure of any of the works herein contracted for, or from delays in the commencement or completion thereof respectively, or from trespass.

Contractor to make good damage done to private property.

15. The contractor shall make good any damage to the roads, whether public or private, drains, canals, bridges, culverts, dams, and watercourses, lands, buildings, and properties generally, arising from any cause contingent upon the execution of the said railway and works hereby contracted for, and shall take upon himself all the liability of the Government in respect thereof.

Contractor to contribute to the maintenance of roads.

16. The contractor shall be bound to contribute to the upkeep of roads used by him either by tolls or such mode of contribution as may be usual in the country, or in the absence of law or usage, as may be fair and reasonable considering the use made by him of such roads.

Roads made by contractor to become Government property.

17. Any roads made by the contractor for the purpose of carrying on the works shall, if so desired by the Government, become their property without any rate or charge being made in respect thereof by the contractor.

Contractor to make compensation to owners of property for damages done.

18. The contractor shall make full compensation and satisfaction as shall be legally claimable to all owners, lessees, or occupiers of land, buildings, watercourses, and property adjoining or near to the site of the works to be done under this contract, and which shall be taken, injured, crossed, or otherwise temporarily used or occupied by the contractor, for all loss or damage to be by such owners, lessees, or occupiers, or other persons, respectively sustained in or by the construction and execution of the said railway and works, or by the neglect or omission of the contractor, and shall indemnify the Government in respect thereof.

Contractor to pay all royalties, &c.

19. The contractor shall pay all royalties and other sums of money which shall be due or payable in respect of any patented articles or designs which shall be used by him in the construction of the railway and works.

Contractor to indemnify Government against penalties and fines.

20. The contractor shall at all times indemnify the Government against all penalties, fines, and payments whatsoever which they shall be required and compelled to pay or make by reason of the non-performance or non-observance of all or any of the engagements herein contained on the part of the contractor; and if at any time the Government shall be called upon under any law or usage or otherwise to pay any sum or sums of money by way of penalty, fine, compensation, or otherwise, for or in respect of or by reason or on account of the breach, non-performance, or non-observance by the contractor of any of the covenants herein on his part contained, or on account of any misfeazance, neglect, or trespass on his part, or liabilities of his incurred or arising in carrying out the said railway works and their accessories, the contractor shall thereupon on demand repay to the Government the full amount of all such penalties, fines, and payments, including all costs and charges, damages, and expenses attending the settling and ascertaining and payment thereof, or of defending any action, suit, or other proceeding in respect thereof; provided nevertheless that no such payment shall be made or action defended without reasonable notice beforehand given to the contractor to the intent that he may have the opportunity of compromising and settling the same.

Government of Ceylon to have power to repay themselves by deductions any monies paid by them by way of penalties or fines.

21. It shall be lawful for the Government from time to time to deduct and repay themselves, out of any monies which shall or otherwise would be payable by the Government to the contractor, the full amount of all monies which shall have been so paid by them, and against the payment of which the contractor shall be liable to indemnify or reimburse the Government, and the repayment thereof shall be due to the Government under any of the

covenants herein contained; and the Government may make such deductions from the monies payable to the contractor under this contract, or at their option sue for or otherwise recover the amount so due.

22. The contractor shall at all times during the progress of the said works take all requisite precautions and use his best endeavours for preventing any riotous or unlawful behaviour by or amongst the labourers, workmen, and others employed in the works, for the preservation of the peace and protection of the inhabitants, and the security of the property in the neighbourhood of the works.

Contractor to cause peace to be preserved.

23. The contractor shall not assign this contract, nor shall he sub-let the works thereof to any extent, or in any manner beyond what in the opinion of the engineer shall be necessary and customary; and no sub-contract for the execution of the said railway and works hereby contracted for, nor any assignment of this contract, shall exonerate the contractor from his liability under these presents.

Contractor not to sub-let or assign contract without license.

24. The contractor shall not sell, or otherwise dispose of or remove, except for the purposes of this contract, any sand, stone, clay, soil, ballast, earth, or other materials of any kind or description whatsoever, which may be obtained from the excavations, embankments, or from any lands in the possession of the Government, and shall not sell or otherwise appropriate any buildings or produce (other than trees and brushwood) upon the site of the works at the time of delivery of possession of the land, but the same are and shall be deemed the property of the Government, if they so desire.

Contractor not to dispose of materials.

25. The contracter shall from time to time, as and when required, furnish the engineer with a statement in writing of the arrangements he proposes to adopt for the execution of this contract, and in case such engineer shall at any time or times consider any alteration in the same desirable, the contractor shall be bound to conform thereto.

Contractor to furnish engineer with statement of mode of executing works.

26. The contractor shall accept all drawings as correct, and shall execute all bridges, tunnels, and other works, as shown on the plans, drawings, and sections from time to time to be furnished to him, and in case of any discrepancy in the respective drawings between the figured dimensions and the measurements taken from the respective scales, the former shall in all cases be considered as correct and binding upon the contractor, and he shall provide at his own expense copies of such plans, sections, and working drawings as he may require.

Contractor to accept drawings as correct.

27. The centre line of railway and the extent of land taken or to be taken in respect of the railway and its stations and works has been or will be staked out, but the Government will not be responsible for the accuracy thereof nor of the sections showing the surface of the ground; but the contractor shall set out the respective works, and the responsibility of completing them in conformity with the provisions of this contract shall rest with him.

Government not to be responsible for accuracy of lands staked out.

28. The centre line, as proposed by the Government, where not already set out, shall, together with such modifications thereof as

Centre line to be set out, with modifications,

within reasonable time; when set out contractor to maintain clearing, mark pegs, &c.

Modifications suggested by contractor to be set out at his own cost.

may under the contract be made, be set out by the engineer, either at once or within a reasonable period after application made by the contractor for the purposes of the work; but when once set out it shall be the duty of the contractor to maintain all clearing marks, pegs, and bench marks; and in case the contractor shall desire to make any alteration or deviation in such line, he shall either at once, or within a reasonable period after application made by the engineer, set out and mark out on the ground such deviations as he may desire to make, and prepare plans and sections of the same, with designs of works of art applicable to the proposed changes of route for the consideration of the engineer. The contractor to find all pegs, stakes, and clearing necessary for the use of the engineer in setting out the line, or in checking surveys and levels of deviations, and checking the setting out of the works of art and the periodical measurement of work executed and materials supplied. The setting out of all works of art to be done by the contractor, who is also to be responsible for the accuracy of the setting out, even when done by the engineer.

Contractor to be responsible for the correctness of the drawings, &c.

29. The contractor shall take upon himself the responsibility of the sufficiency of each and every work, as drawn or specified, and the correctness of the quantities thereof, and whether the provisions of this contract for the permanent completion of the respective works are adequate or otherwise; that is to say, whether the numbers of works of art be sufficient, whether the depths of the foundations and the dimensions generally of any of the bridges, or any other erections, or the slopes of the cuttings, size of drains or of waterways, of bridges, viaducts, or culverts, as shown on any drawings or specifications furnished to him, shall be sufficient or not; and in case any of the same shall during the execution or maintenance of the works appear in any respect inadequate, or in case any additional precautions whatever may appear requisite in the opinion of the engineer for the due and substantial completion of the respective works specified, the contractor shall execute the same at his own cost and charge, without being entitled to any addition to the amount of the contract, it being further understood that no extras are to be allowed, except as herein-after mentioned.

Contractor to make alterations, deviations, &c. if required.

30. The contractor shall from time to time make any alterations in the railway and works which the said engineer shall think necessary, whether in the way of additions, deductions, or deviations, and he shall, when ordered by the engineer, omit any works herein contracted for, or any part of them, or execute any new or extra work; and such alterations and additions, or omissions, shall not vitiate nor affect this contract.

Alterations made by order for the purposes of stability, completeness, &c. not to be paid for as extras.

31. Under no circumstances will any extra payment be allowed in respect of any of the additions or alterations contemplated by Article 22 of the specification.

Expenditure on stations and sidings.

32. In calculating the net expenditure in the formation of stations and other matters contemplated in Article 29 of the specification, the engineer will make a due allowance for superintendence and use of plant, in addition to the actual payment for labour and materials. The prime cost of work to be executed

under this article may from time to time be agreed between the engineer and the contractor before commencing any work included herein, but failing such agreement the contractor shall, for the purpose of checking the amount of such expenditure, furnish the engineer satisfactory vouchers, and in calculating the total value of the work executed under this provision, any diminution or excess of net expenditure, or prime cost, as above explained, under or over the net expenditure of 66,000*l.*, will be debited or credited to the contractor on the engineer's certificate. Any diminution or excess in the total length of sidings ordered under or over the total length of 10 miles shall be allowed for by the engineer at such rates as he may consider to be reasonably remunerative, and debited or credited to the contractor accordingly.

Station and extra work.

33. No work will be allowed to be taken into account as station work, or as additional to the guaranteed contract amount, without written instructions from the chief resident engineer to the contractor, defining such work as station work, or as work additional to the contract: Provided always, that if the contractor, on being ordered to execute any work, considers that it ought to be treated as station work, or as liable to payment as additional work, he may, prior to the commencement of such work, represent such case in writing to the chief resident engineer, and on his refusal to admit such work as station work or as additional work, the contractor shall within a month send a statement to the consulting engineer of such claim for his consideration and decision, giving at the same time a copy of such statement and claim to the chief resident engineer for his observations thereon. Failing compliance with this condition, the contractor shall be absolutely barred from raising any claim in respect of station or additional work.

Value of alterations, how estimated.

Disputes as to extra work to be settled by consulting engineer.

34. The amount of work claimed by the contractor as an extra shall be ascertained by admeasurement at the time of execution, and the value thereof if allowed as an extra, at such price as shall be settled between the chief resident engineer and contractor. shall be added to the amount of the contract price, and be paid for in like manner. In case of dispute between the contractor and chief resident engineer as to value, the same shall be determined by the consulting engineer, on the certificate of the chief resident engineer, and such certificate as regards quantity, extent, time, mode of execution, and other particulars necessary to enable the consulting engineer to decide, shall be final and binding as to all matters therein mentioned, and the award of the consulting engineer shall be conclusive and without appeal.

All beasts of labour, plant, and materials, to be property of the Government.

35. All beasts of labour, plant, and materials brought or left upon or near the site of the works, or imported into or shipped to Ceylon, by or by order or on account of the contractor, to be used and employed on or for any of the purposes of the said works, shall become and be considered as the property of the Government, subject to the agreement next herein-after contained, for the benefit of the contractor, and the same or any part thereof shall on no account be taken away, used, or disposed of by him, or any other person whomsoever, except for the purposes of the

works, without the licence and consent of the engineer, to be given in writing; but the Government shall not be answerable for any loss or damage of or to the said materials, beasts of labour, engines, or tools.

Upon completion of works contractor may remove beasts of labour, plant, and materials.

36. Provided always, that upon the completion of the said railway and works hereby contracted to be done, such completion to be certified as herein-after mentioned, and upon payment by the contractor of all such monies, if any, as shall be due from him to the Government under any of the covenants herein contained, and on the due performance of the said covenants, such of the said beasts of labour, plant, or materials, as shall not have died, or been used, or converted in the said works, and shall remain undisposed of and in the custody of the Government, shall be delivered up or relinquished by them to the contractor, for the purpose and upon the condition of his removing the same immediately at his own costs from the works and premises of the Government. Should the Government, however, then desire to retain possession of the said beasts of labour, plant, or materials, or any of them, they shall be at liberty so to do, paying for the same such price as may be fixed by arbitration by two arbitrators, or their umpire, appointed in the usual manner.

If engineer not satisfied with plant other to be provided.

37. If the engineer shall at any time or times consider the number of workmen, or beasts, or the amount or character of the plant or materials employed or provided by the contractor in, upon, or for the purposes of the said works to be insufficient, inadequate, or improper for the due advancement of the works towards completion, or that the several and respective works are not progressing with due diligence and despatch, then and in every such case it shall be lawful for the engineer immediately to give notice in writing to the contractor to dismiss any of the agents, overlookers, and workmen, and to remove any unsuitable men, beasts, plant or materials, and to require the contractor to appoint in lieu of such persons other fit and proper agents and overlookers, and to employ other workmen, or to provide other beasts, plant, and implements, and also to make such additions to the agents and overlookers, or men employed, or to the number or amount of the beasts, plant, and materials, or change in their character, as the engineer may reasonably think necessary or expedient, either until the completion of all or any of the said works, or for a limited period, as by such written notice or notices shall be required. And in case the contractor shall not thereupon, or within such period as may be thereby required, in all respects comply with the same, then and in every such case it shall be lawful for the Government or their engineer, on account and at the costs of the contractor, to remove unsuitable agents, men, plant, or materials, and at the like cost to provide and employ such additional agents, overlookers, and workmen for such time, and to purchase and provide such additional or other beasts, engines, plant, and materials respectively as he may think necessary, and to pay such additional agents, overlookers, and workmen such wages, and to pay for such additional beasts, plant, and materials respectively, such prices as the engineer may think-

In default engineer may provide other men and materials.

proper, all which wages and prices respectively, if paid by the Government, and any extra expense the Government may be put to, shall be thereupon repaid to them by the contractor, or the Government shall be at liberty to retain or deduct the same out of any money or other sources of payment which shall be then due or shall thereafter become due from them to the contractor by virtue of these presents or otherwise, or from the sale of any of the above beasts of labour, plant, and materials which the Government under the circumstances may possess themselves of, and the Government may make such deductions at their option from all or any of the sources of payment herein referred to.

If contractor fails to execute works to the satisfaction of the engineer, or in case of bankruptcy, Government may, at their option, take the works into their own hands, or determine the contract.

38. If the contractor be declared bankrupt, or take or attempt to take the benefit of any Act of Parliament for the relief of insolvent debtors, or if the contractor from any cause whatever (other than such a cause as the consulting engineer certifies to be an unavoidable accident or default on the part of the Government) fails to complete and deliver over the said railway and works to the Government by the time in that behalf fixed by or under this contract, or any extension thereof as herein provided, or if the contractor in the judgment of the consulting engineer fails to proceed with due despatch in the execution of any of the works, or in any other respect fails in the due performance or observance of this contract, then and in every case, if the consulting engineer certifies that it is in his judgment proper for the Government so to do, the Government may thereupon take possession of the works and of the contractor's plant, beasts, and materials provided for the work, and employ such persons as they may think fit, either by contract or by measure and value, or otherwise as the consulting engineer certifies to be proper, to proceed with and complete the works and maintain the same, and in other respects to fulfil the obligation of the contractor under this contract, and may use for such purposes the contractor's plant, beasts, and materials so taken possession of, or it shall be lawful for the Government at their option, in such and the same cases, by notice in writing under the hand of any authorized officer or their secretary, to be delivered to the contractor or left for him as aforesaid, absolutely to determine this contract.

In case the Government takes the works.

39. If the Government elect to proceed with the works, a valuation of the contractor's beasts, plant, and materials so taken possession of shall be made by the engineer, and the Government shall give to the contractor credit for the value thereof as certified by the engineer, and shall debit the contractor with all sums actually paid to him under this contract, and with all the payments, costs, damages, and expenses made and incurred by the Government in and about the completion and maintenance by the Government of the railway and works, and the fulfilment in all respects of the contractor's part of this contract; and the consulting engineer shall, after the completion of the railway and works and the maintenance thereof, certify whether on the balance of the accounts under this contract between the contractor and the Government, there is any and what sum due from either party to

the other; and the Government or the contractor, as the case may be, shall on demand pay to the other party the amount of the balance so certified to be payable.

In case the Government determines the contract.

40. In case the Government elect to determine the contract, they shall pay to the contractor for such works as shall have been done by him proportionally such sum as the consulting engineer shall consider to be sufficient, such consulting engineer being at liberty in fixing the amount to take into consideration what will be the proper compensation for the loss which the Government may have sustained by such default; but all materials, beasts, and plant provided by the contractor for the purposes of the work shall remain the property of the Government, who shall be at liberty to use, apply, and dispose of the same respectively, for the purposes of the work hereby agreed to be executed until the completion thereof, when the same shall revert to the contractor, without any allowance for the losses, wear, tear, and injury they may have sustained, under and subject to the like provisions as are herein-before contained, in contemplation of the works being completed by the contractor.

Credit to be given to the Government for damages, penalties, &c.

41. In the accounts between the Government and the contractor credit shall be given to the Government for all damages, penalties, and expenses payable according to this contract by the contractor to or for the Government, as being payments made by the Government to the contractor in part of the sum to be paid to him by the Government according to this contract.

Contractor to re-execute faulty works.

42. If at any time during the progress of the works, or previously to the completion of the same, or during the period of maintenance thereof, the engineer shall consider any materials to be unsuitable, or any part or parts of the said railway and works to have been unsoundly or imperfectly executed, or not made of proper materials, or not performed in a workmanlike manner, or if any accident or damage to the said works from any cause shall occur before completion thereof and expiry of the period of maintenance thereof, then and in every such case the contractor shall cause all such materials, and the works which shall be so injured or damaged, or mentioned or referred to by the engineer as being so unsound or imperfect as aforesaid, to be forthwith removed if and as occasion shall be, and to be executed or reinstated properly and of proper materials, and in all respects according to this present contract to the satisfaction of the said engineer, without any extra charge whatsoever, and in the event of the contractor neglecting for seven days after notice in writing given to him by the engineer, requiring any of the matters mentioned in this clause to be done and performed, it shall be lawful for the engineer to do and perform the same in the stead of the contractor, but at the contractor's costs and risk.

Contractor to maintain works for seven years after completion.

43. The contractor shall at his own expense for the space of seven years, to be computed from the time when the railway shall have been completed, and the engineer shall have given his certificate of completion thereof, uphold and maintain in good and perfect repair (and where necessary renew), in sound and substantial condition, the whole of the railway and works hereby

contracted for, with all and all manner of necessary reparations, amendments, and renewals whatsoever, and make good all derangements of the said railway and works, from whatsoever cause arising other than civil war, rebellion, earthquake, or volcanic eruptions, and will find and provide all necessary materials for those purposes, and will keep, maintain, and leave the same in good repair and working order, to the satisfaction of the engineer. Provided, however, that if the Government shall accept any portion or section of the railway as complete before the completion of the whole line, and shall open the same for public traffic, the period of seven years shall in respect of the portion or section of railway so accepted be computed from the time of such opening.

Government to hand over on certain terms works already executed and materials provided by the late company.

44. The Government will hand over to the contractor, on the terms herein mentioned, the works already executed, and all buildings, materials, and plant of every description, whether in England or Ceylon, provided by the late company for the construction of the railway, and subsequently taken to by the Government.

Contractor to take to works executed and materials provided at a price to be determined by arbitration. Permanent works and materials taken to be considered work executed and materials provided by contractor, but temporary buildings, material, and plant to become property of contractor on completion of the work.

45. The contractor will take to the works, buildings, materials, and plant so already executed and provided at such price as shall in case of difference be settled by two arbitrators (one to be chosen by the Government and one by the contractor) and their umpire in the usual manner, and the total amount of such valuations shall be debited to the contractor as monies paid to him on account of the contract. The works, permanent buildings, and permanent materials so taken to shall be considered as work executed and materials provided by the contractor under this contract, and any temporary buildings, materials, or plant so taken to, which may on the completion of the work not have become part of the railway or its proper accessories, shall be the property of the contractor.

Valuation of work to be made without reference to its cost.

The valuation of such works, permanent buildings, and permanent materials shall be determined without reference to their original cost, but solely with reference to their value to the contractor in the execution of the contract at the time of valuation and their then actual condition.

Valuation of plant, &c. taken to by Government on completion of work.

The valuation of the plant, and of the materials and buildings of a temporary nature referred to above, and of everything taken to by the Government on completion, shall be based on the market value at the time of the valuation, a due allowance being made for depreciation, when such depreciation would in any way affect the purchaser.

Contractor may use any part of railway while in construction for temporary purposes.

46. The contractor shall be at liberty, at his own risk, to use any part of the railway while in construction for the temporary purposes of the said railway and works, subject to the rights of the engineer, at any time prior to the railway being finally accepted, to reject any part thereof, and any of the works which may have been damaged by such contractor.

Contractor may use opened

47. In case any portions or sections of the railway shall be completed and opened for public traffic before completion of the

portions of railway.

whole line, the contractor shall be at liberty to use such portions without charge by running his own trains thereon for the conveyance of men and materials for the purposes of this contract; provided that such user shall be subordinate and subject to the convenience and safety of the public traffic, and that his trains shall be run only at such times and speeds and in such manner and subject to such regulations as may be specially sanctioned by the railway authorities, and he may in like manner, and provided it shall in no way interfere with, delay, or prejudice the public traffic, subject as above to the special regulations and sanction of the railway authorities, be allowed to send his men and materials by the ordinary trains: Provided always, that he shall repay to the Government any cost or expense which may directly or indirectly be caused by his running such trains of his own, or using the trains of the Government. But no profit is to be charged for such use of the opened portions of the line.

Plant and materials purchased in Europe to be submitted for approval of consulting engineer.

48. All plant and materials manufactured in Europe, and shipped by the contractor, shall before being removed from the places at which they are prepared be submitted for the inspection and approval of the consulting engineer, or some agent named or approved of by him; and the contractor shall give him 10 days notice before removing such plant and materials for shipment, so as to enable him to make his inspection.

Shipments at contractor's risk.

49. All articles so shipped for Ceylon shall be so shipped and shall be transmitted to the works at the expense and risk of the contractor; and if any such articles be lost, abstracted, or damaged, the contractor will make good or replace the same to the satisfaction of the consulting engineer.

Contractor to pay freight, &c.

50. The contractor will pay all the expenses of freight and insurance of all plant and materials manufactured in Europe, and shipped for Ceylon, and all other expenses of and incidental to the delivery thereof at the works; and the consulting engineer shall add the expenses of freight and insurance to the value thereof in certifying the amount to be paid for the same.

Gross amount to be paid for construction.

51. The Government shall pay to the contractor for and in respect of the said railway and works, matters, and things herein contracted to be executed and done and completed, and in respect of materials and articles to be provided and used by the contractor for the purposes of such railway and works and undertakings, and in respect of all other matters to be done or performed by the contractor under the powers of this contract, exclusive of maintenance, the gross sum of 873,039*l.* 12*s.* 4*d.*, subject to any addition or diminution thereof, if any, under the provisions of this contract, and this contract is to be considered as a guaranteed contract at that amount, subject as aforesaid for a railway of a perfect and complete description, with all proper accessories except land, and such sum shall include and cover contingencies of every description.

Monthly payments to be made in sterling or other current money, subject

52. The said sum shall be paid in such proportions as shall in manner herein-after mentioned be certified, subject to a deduction of 10 per cent., to be held and retained in hand by the Government as a guarantee as herein mentioned, and which per-centage

so to be deducted as aforesaid is herein-after referred to as the guarantee fund. All payments shall be made in Ceylon, either in sterling money of Great Britain, or in other current money of Ceylon of equal value, except such payments as are made by way of advance on goods, plant, and material sent forward from Europe, payments for which are herein provided for.

to deductions of 10 per cent. to a form a guarantee fund.

53. The contractor is to furnish on demand periodically, or from time to time, such returns as may be required by the engineer of the number and description of agents, foremen, and workmen of all sorts in his employ, and of the materials and plant shipped, and shall produce such vouchers for the same as shall be reasonably required.

Contractor to furnish returns of the number and description of his agents, foremen, &c.

54. A schedule for payment shall, prior to the commencement of the work, be prepared by the chief resident engineer and the contractor, under the direction of the consulting engineer, and subject to his decision in case of difference, such schedule being, however, subject to correction hereafter, if decided to be necessary, by the consulting engineer.

Schedule of payments to be prepared prior to commencement of works.

55. At the latter part of every month the assistant engineers, jointly with the contractor's agents, shall prepare progress measurements of the work done and materials supplied during that month, and on the 1st day of the next succeeding month the chief resident engineer shall, after having been furnished with such progress measurements, prepare an estimate of the value of the work executed and materials supplied, included in such progress measurement. This estimate will, for the purposes of the monthly certificate, be based on the prices of the schedule above named.

Progress measurements to be made monthly, and engineer to give certificate of value of work done on the 1st of each month.

56. For the purposes of the monthly certificate, all the contractor's permanent materials not manufactured in and shipped by the contractor from Europe shall be deemed to be provided when the same respectively are deposited on or near to the site of the works.

For purposes of monthly certificate permanent materials on site to be valued.

57. Every monthly certificate which shall be given by the engineer shall be regarded as only provisional and approximate, and all payments made on such monthly certificate shall be regarded as being open payments, and shall respectively be subject to the revision and settlement of the chief resident engineer.

Monthly certificates to be considered provisional and approximate.

58. In the event of the engineer deciding that from any circumstances the monthly measurements or estimates previously made do not truly represent the proportion of work done, having reference to the total value of the contract, and the work remaining to be executed by the contractor, the said engineer shall have power from time to time to correct the total result by adding thereto or deducting therefrom such sums as after communication with the contractor, or his principal agent, he may deem to be just and fair; and such addition or deduction shall be credited or debited (as the case may be) to the contractor at such time as the engineer may think fit; the certificates of the said engineer shall, except in cases of unavoidable delay, be given on the first day of each month, and the money payable thereon after making the

Engineer to be at liberty to revise monthly certificates.

Engineer's certificate to be given on 1st of each month, and money due to contractor to

be paid within one week.

deductions contemplated by the contract, shall be paid to the contractor or his agent within a week of the granting of such certificate.

Certificate on final completion of any section or portions.

59. When any portion or section of the railway has been completed by the contractor to the satisfaction of the engineer, and shall have been delivered over to the Government, at its request, the engineer shall give to the contractor a certificate of the final completion of that section, and shall then revise and settle the monthly certificates so far as they relate to that section, taking into account all payments theretofore made to the contractor in respect of that section, and shall certify the total amount payable on account of that section of the railway, which amount shall be such as in the judgment of the engineer is equitable, and fairly proportionate to the contract sum.

Value of materials shipped (not including plant) with cost of freight, &c. at schedule prices, to be paid to contractor by Agents General; such payments to be subjected to deductions of 10 and 5 per cent.

60. When any materials manufactured in Europe, and shipped by the contractor for Ceylon (but not including contractor's plant and materials), are inspected and approved as required by this contract, the consulting engineer shall certify the value thereof at such value or price as will accord with the schedule for payments for the time being, including the expences mentioned in Article 50, but making the deductions on account of the guarantee fund and repayment advances, as provided for in Articles 52 and 62 of this contract, and on the presentation by the contractor at the office of the Agents General in London of any such certificate with the contractor's invoices, bills of lading, receipts for freight and policies of insurance (effected in some office approved of by the Agents General) of the articles so shipped, duly assigned or otherwise transferred to the Government, the amount so certified shall after three clear days from the day of presentation of the said documents at the office of the Agents General be paid to the contractor by a cheque or order on the bankers of the Agents General in London, payable at sight.

Government to advance on expenses of sending out staff to an amount not exceeding 8,000*l.*

61. In order to assist the contractor, the Government will make to him payments on account of the contract sum to such an amount not exceeding in the whole 8,000*l.*, and in such proportions as the chief resident engineer from time to time certifies, to be payable for the expenses of agents and staff shipped from Europe, at the expense of the contractor, and landed in Ceylon, and under engagements with the contractor for at least one year to work in the execution of this contract. The Government will also from time to time make to the contractor an advance to such amount as the consulting engineer shall think reasonable on the value of the contractor's plant and temporary materials (not included in the provision for payment contained in the 60th Article of these presents) shipped by the contractor for Ceylon, and certified by the consulting engineer as requisite and proper for the execution of the contract works, such last-mentioned advance not to exceed 15,000*l*, and to be made from time to time on presentation at the offices of the Agents General in London of the certificates of the engineer, the contractor's invoices, bills of lading, receipts for freight, and policies of insurance.

Agents General to advance on contractor's plant on certificate of consulting engineer to an amount not exceeding 15,000*l.*

62. The various amounts so advanced in England on account of contractor's plant and temporary materials, as well as the sum charged to the contractor for plant, materials, and buildings of a temporary nature taken to by him in Ceylon, shall be repaid to the Government by setting off against the same and deducting a sum equal to 5*l.* per cent. on all monies from time to time certified by the monthly certificates to be due and payable in England and Ceylon respectively to the contractor under this contract, until such advances are repaid. The whole of the contractor's plant on which advances shall be so made shall be and remain the property of the Government until entirely redeemed by the deductions above named, and all permanent materials when certified for or taken into account are to be the absolute property of the Government.

All advances on plant and temporary materials to be repaid by the deduction of 5*l.* per cent. on all monies paid to contractor; plant to remain property of the Government until advances have been repaid.

63. The deductions of 10 per cent. will continue to be made until the guarantee fund amounts to 12,500*l.*, and then 5 per cent. will be reserved until the total of the guarantee fund amounts to 25,000*l.* One half of the guarantee fund will be released on the certificate of completion of the whole of the railway works to the satisfaction of the chief resident engineer, and the remainder will be retained as a security for the due fulfilment of this contract as herein-after mentioned, until the whole railway shall have been opened for 12 months. The guarantee fund will from time to time be invested by the Government in the purchase of imperial or colonial Government securities, at their option, at the cost and risk of the contractor, and the securities thus purchased shall, when finally handed over to the contractor, be taken and received by him in full satisfaction of so much of the guarantee fund as may have been originally laid out in the purchase of the same, notwithstanding any alterations that may have taken place in the market value of such securities.

Guarantee fund.

Investment of guarantee fund.

Should the Government deem it advisable to remit to England for investment any or the whole of the deductions made in Ceylon on account of the guarantee fund, the profit or loss arising from difference of exchange or otherwise on such remittance, shall accrue or be borne by the Government.

Government to be at cost or profit of remittances for investment.

Both principal and interest of the guarantee fund, as and when respectively payable to the contractor, shall be paid to him wheresoever the investments then stand, whether in England or Ceylon, and such interest as shall from time to time accrue in respect of any such investment shall be paid to the contractor as and when received by the Government.

Interest on investments to be paid to contractor.

64. The said guarantee fund shall be applied in or towards making good any defect or unsoundness which shall be certified by the engineer as existing in the railway or works hereby contracted for, or in the material used in the formation or construction thereof, and any default or neglect of the contractor in relation to the premises, and also in making good any breach of covenant on his part.

Guarantee fund shall be applied to make good defective works, &c.

65. In addition to the said contract sum the Government will pay to the contractor for maintaining and upholding the railway and sidings, stations, works, and accessories in accordance with

Government to pay contractor 300*l.* per annum per mile for

maintenance of railroad.

this contract during the seven years of maintenance at and after the rate of 300*l.* per annum for every mile run of main line executed, and in proportion for any less distance, according to length, such sum to be payable monthly on the engineer's certificate, in like manner as provided in respect of the gross contract sum.

Government to provide land for site or line of railway, &c.

66. The Government will, when and so often as the contractor shall reasonably require, provide for and give him possession free of expense, and at such times as the engineer may deem requisite for the proper execution of the works, so much of the land and property to be taken for the site or line of the railway and the permanent works of the same, and for side cuttings and spoil banks, as he may by notice in writing require. Unless such notice shall be given by the contractor, and shall describe the quantity and situation of the land required, any interruption or delay of the railway and works arising from or occasioned by such non-delivery of the possession of the land or property as aforesaid shall not be deemed a breach of any of the covenants herein contained, and the contractor shall not be entitled to any extension of time in respect of such interruption or delay.

Appointment of consulting engineer.

67. The Government will forthwith appoint a competent English civil engineer to be the consulting engineer in the matter of this contract, and will from time to time, in case of his ceasing to be their consulting engineer, appoint another such civil engineer in his place: Provided, however, that if the contractor shall within 14 days after personal service on him of notice in writing from the Government of each such appointment, or within 80 days after service of such notice on his agent, object to the person so named as consulting engineer, it shall be lawful for the contractor to state his objections privately and confidentially to the president for the time being of the Institution of Civil Engineers; and on the certificate of such president that such objection is reasonable, the Government will thereupon nominate some other competent English civil engineer as consulting engineer, and so from time to time until the consulting engineer is finally appointed. The Government shall have power from time to time, if they think fit, to cancel and vary such appointment, subject to such right of objection on any new appointment as aforesaid.

No breach on part of Government to annul contract.

68. No breach or non-observance on the part of the Government of any of the agreements herein on their part contained shall annul these presents, or discharge the contractor from the observance and performance of the several covenants on his part herein-before contained, but compensation for damage, if any, shall be made to the contractor, or an extension of time, at the option of the consulting engineer, given him for such breach or non-observance by the Government, such compensation or extension of time to be fixed by the consulting engineer.

Disputes to be referred to consulting engineer.

69. In case and so often as any dispute shall arise between the Government and the contractor concerning or relating to the said works hereby contracted for, or any of them, or any covenant, engagement, matter, or thing herein contained, or the construction thereof, except as to the value of the plant and materials and

works already done and taken to by the contractor on the commencement of the contract, and as to the value of the plant and materials, if any, to be taken to by the Government on the completion of the works, the subject of every such dispute shall in every case, except where otherwise provided, on the demand in writing of either party, be referred to the arbitration and award of the consulting engineer.

70. The decision of the said consulting engineer as such arbitrator upon all matters referred to him shall be final and without appeal. Decision of consulting engineer to be final.

71. The arbitrator shall have full power to make, if he think fit, several awards instead of one award, and every such award though not on the whole matter shall be conclusive so far as it extends, and as if the matter awarded on were the whole matter referred. Consulting engineer to be at liberty to make several awards.

72. The arbitrator shall have full power to proceed in the absence of both or either of the parties, after giving to both parties such notice as the arbitrator thinks sufficient of his intention so to proceed. Ex parte.

73. The arbitrator shall have full power to inspect the accounts of both parties, and examine on oath, affirmation, or on statutory declaration in lieu of oath, the contractor and the officers, agents, servants, and witnesses of the parties respectively. To examine.

74. The costs of the reference and of the award shall be in the discretion of the arbitrator. Costs of reference and award.

75. As far as the same are applicable, and not hereby varied, the provisions of the Common Law Procedure Act, 1854, with reference to the settlement of disputes by arbitration, shall apply to the arbitration agreed to in these presents. Interpretation of clauses of Common Law Procedure Act, 1854.

76. The Agents General shall not be in anywise personally bound for the acts and observances of the said Government under these presents, or answerable for any default or omission in the observance, performance, or fulfilment of the acts, deeds, matters, or things which are hereby made obligatory on the Government. Non-liability of Agents General.

In witness whereof the said persons parties to these presents have hereunto set their hands and seals the day and year first above written.

Signed, sealed, and delivered by the said Penrose Goodchild Julyan, William Charles Sargeaunt, and by William Frederick Faviell, by his attorney, John Joseph Tourle, in the presence of

PENROSE G. JULYAN. (L.S.)
W. C. SARGEAUNT. (L.S.)
W. F. FAVIELL. (L.S.)
By me JOHN J. TOURLE, his attorney.

J. BREND BATTEN, solicitor,
32, Great George Street, Westminster.

Signed, sealed, and delivered by the said William Frederick Faviell, this 1st day of April A.D. 1863, in the presence of

W. F. FAVIELL.

RICHARD F. MORGAN, Queen's Advocate of Ceylon.
G. W. STORK, Acting Deputy Registrar.

THE FIRST SCHEDULE BEFORE REFERRED TO.

CEYLON RAILWAY.

General Specification and Specification of Rails and Fittings.

1. The contract to be an absolute guarantee to complete the railway and works, with all accessories of every description, at a given sum, and without extras of any sort. Contingencies of every description which may arise being borne by the contractor, subject to no increase or diminution of price, excepting as is explained in the contract.

2. The Colonial Government will provide the land and the rolling stock ; they will also hand over to the contractor the works already executed, and such rails, stores, iron girders, machinery, plant, materials, buildings, and other things as have been furnished or executed either in England or in the Colony, in part execution of the works of the railway, or in preparation for the same, on the terms named in the contract.

3. They will allow to the contractor, subject to the approval of the engineer, the use without charge of the permanent rails for the construction of the line, provided such permanent rails be only used where the road bed is properly formed, the contractor being bound to restore these rails to the Government in the work straight and in perfectly good order. The contractor will have to provide temporary rails for tips, &c.

4. If desired by the contractor the Government will allow the use of such locomotive engines as they may have in Ceylon for the purpose of ballasting, not, however, exceeding one locomotive for every seventeen miles of road in course of execution. The contractor must keep such engines in perfectly good order, and will be charged such sums for the use of the engines as in the opinion of the engineer will fully cover the cost of their depreciation.

5. The whole of the works and materials are to be of the best character in every respect, and the work in all its details is to be executed to the entire satisfaction of the engineer appointed by the Government for that purpose, any omission in the specification not being admitted as a ground for the omission of any work, or any accessory to the work, which in the opinion of the engineer may be necessary to produce a perfect railway complete in all respects, and equal in character to the best constructed English railways, including at the same time all special provisions which may be necessary to meet local requirements or the effects of a tropical climate.

6. All rails, fittings, iron girders, and other things provided in England are to be subject to the approval in all respects of the engineer who may be appointed by the Government for that purpose.

7. The order and manner in which the work is to be carried on shall be under the absolute control, so far as work in England is concerned, of the consulting engineer, and so far as work in Ceylon is concerned of the chief resident engineer.

8. The whole of the railway and stations shall be properly fenced in. The ordinary fence of the railway shall be that known in Ceylon as "live fence." Artificial fencing may, however, be dispensed with when natural obstacles or drains shall, in the opinion of the engineer, be sufficient ; at and about stations dry walling or palisade fencing will be required.

9. All proper gates, lodges, approach roads, diversions of roads, level crossings, day and night signals, gradient and quarter mile posts, and other accessories, shall be provided as part of the guarantee contract.

10. All necessary drains are to be provided, both in side drains, catch-water drains, culverts, cross drains, &c. The amount of waterway to be provided in culverts, bridges, flood arches, &c. shall be such as the engineer may consider to be necessary ; but if by any error in judgment an inadequate waterway should have been sanctioned, and the error should be discovered while the works are in the contractor's possession, he will have to make the necessary increase at his own cost.

11. The line to be a single line of a gauge of 5 feet 6 inches, the formation width to be made and maintained to 20 feet, or to a greater width if it should be found necessary for the purposes of drainage. In excavations in rock or other hard material the engineer may at his discretion allow a formation width of less than 20 feet, provided that the contractor shall be bound to increase such width at his own cost at any time during the construction or maintenance of the works if required by the engineer.

12. The slopes of the earthworks shall be such as, in the opinion of the engineer, may be necessary for the safety and security of the works, and soiled where required by the engineer. (The necessity for soiling is not, however, expected to arise.) All necessary provision and protection shall be applied to prevent injury to the works by floods, or by rainfall, or the wash of drainage, or atmospheric influences.

13. The bridges, viaducts, flood openings, culverts, and all works of art shall be of a permanent nature, but no more expense will be required on the works of art than is necessary to produce solid and permanent structures. It is at the same time to be observed that the works of art, while built for a single line, should, as far as may be reasonably practicable, be so constructed as to give facilities for doubling the line, if it should hereafter be found necessary.

14. The masonry may be of rubble, well bonded and bedded, but not necessarily coursed. Ashlar work will not be required, but plain rough coping will be required to parapet walls, &c. The best mortar in all cases to be used, excepting where dry walls may be allowed for supporting banks. Cement may be required by the engineer where he thinks it necessary.

15. Brickwork to be of the best plain brickwork of the country.

16. Timber will not be allowed for any of the structures, excepting to the limited extent shown in the drawings of Mr. Molesworth for the floors of small girder and deck bridges. Where flat tops may be found economical or desirable, they shall be of

wrought-iron plain beams for small spans, and either wrought-iron box girders or wrought-iron lattice beams for large spans.

17. In all cases where iron, either wrought or cast, is used, it must be fully protected from rust or injury by paint or boiled oil.

18. All ironwork or other materials sent from Europe must be of the best description as to material, construction, and workmanship, and must bear such tests as the engineer may think fit to prescribe. The contractor shall provide all necessary assistance and implements for testing the same and inspecting their quality at the establishments where they are made or prepared.

19. Where stone can be obtained or bricks made within a reasonable distance of the work they will be preferred for piers of bridges, but iron screw piles, or pipe piles properly braced, will be allowed for the piers of flood openings where stone or brick is not within a reasonable distance, or where masonry or brickwork foundations would be difficult or unsafe.

20. All timber used, whether for the floors of small bridges or for sleepers, must be of a durable character, and such as is fully approved in the Island for the purposes of construction, such as the best millile, satinwood, ironwood, jack, gal-mendora, ebony, or paloo, and no timber must be brought upon the work but such as is specially approved and sanctioned by the engineer. In order to facilitate the opening of a portion of the railway as quickly as possible, the contractor may use for the first length of the line, to be laid continuously on the work, 50,000 sleepers of the best Baltic fir, in lieu of the woods above named, such sleepers being accurately bedded and bored by machinery, and thoroughly creosoted under a specification for sleepers and preparation, to be settled by the consulting engineer.

21. Where tunnels may be made they shall be efficiently lined, where necessary, with brick or masonry, well bonded and bedded, and shall have a clear width of 16 feet and a clear height of 18 feet.

22. The general character of the structures will probably be such as is shown and described in the drawings and reports of Mr. Molesworth, exhibited to the contractor with this specification, but these are not to be regarded as contract drawings in any way which should limit the guarantee nature of the contract, nor is the Government in any way bound by the quantities or rates in Mr. Molesworth's estimates; and if any alteration of line or levels, or additional structures of any sort, larger or increased number of openings, or greater dimensions, or increased quantities, either in earthworks or works of art, or things not named in Mr. Molesworth's reports or estimates are found to be necessary for the stability and completeness of the work, and as such at any time ordered by the engineer, the contractor shall execute such additional work without extra charge. The engineer shall also have full power to vary and alter the designs as he may think fit, without any extra charge being made on that account by the contractor.

23. The sleepers to be provided for the permanent way shall be 9 feet 9 inches long by 10 inches by 5 inches, roughly squared, the joint sleepers being 12 inches by 6 inches, the average spaces being

3 feet centre to centre of sleepers, excepting on the inclines, where they are to average 2 feet from centre to centre, as provided for in the reports and estimates of Mr. Molesworth herewith exhibited and marked AA. The sleepers are to be accurately bedded and bored by machinery, great care being taken not to cut the beds too deep. The check rails proposed by Mr. Molesworth for the inclines, and included in his estimates, will not be required.

24. The ballast to be broken stone or well cleaned cabook gravel or river ballast 2½ yards cubic to the yard run; coarse clean sand may be allowed for the bottom ballast to one third of the total depth. It is not expected that much cabook will be found fit for ballast.

25. The rails and fittings are to be according to the specifications hereunto annexed, marked CC. No. 1, 2, 3, and 4. A quantity of these fittings and 5,000 tons of rails, of which part are in England and part in Ceylon, have been provided, and will be handed over to the contractor as stated in Article 2.

26. The line is to commence at the station as already fixed at Colombo, and to finish at Kandy at the point shown on the plans, and described in the papers of Mr. Molesworth. Up to the 30th mile or thereabouts from Colombo the course proposed is that laid out by Mr. Doyne, referred to in his report marked BB. and shown on his plans exhibited with this specification; but beyond the 30th mile the course proposed is that laid out by Mr. Molesworth and described by him.

27. The contractor will not be finally bound to the route laid out or to the works as designed, but he may, subject to the general conditions herein named, submit to the engineer such alterations or deviations as he may desire: Provided always, that it shall be in the absolute discretion of the engineer to refuse such alterations or deviations if he considers they would in any way affect the permanent stability or efficiency of the works; and provided also, that any deviation proposed shall not involve worse conditions as to curves or gradients, or otherwise interfere with the value of the line for traffic purposes.

28. The contract is to include the laying, wherever required, of ten miles of sidings, including rails, fittings, sleepers, and ballasting.

29. It is also to include the net expenditure by the contractor, wherever required by the engineer, of 66,000*l.* in the formation of stations, erection of station buildings and workshops, providing and fixing of switches, crossings, turntables, weighbridges, cranes, water tanks, machinery, tools, fittings, &c., such provision including all earthwork at stations beyond that necessary for the single line of railway, and all works at stations beyond single line works, excepting the sidings and the signals, approach roads, drainage, fencing, and other accessories elsewhere named or implied.

30. The Government may, if it should so decide, take to and open for traffic successive portions of the railway as they may be finished, and the contractor shall be bound, if so required, to carry on the work in such a manner as to facilitate such successive openings of the line for traffic.

31. During the execution of the works, and until each section is taken to as complete, the contractor will be bound to maintain everything in perfect order and condition at his own cost, making good all failures which may have arisen from any cause whatever. Diversions of public roads made necessary by the railway works shall, after being opened to public use, be maintained and upheld by the contractor (for a period not exceeding 12 months) until in the opinion of the engineer such diversions shall have arrived at a fair average condition, as compared with the unaltered portions of such roads.

32. From the time when any length of the railway is completed and opened for public traffic, the contractor shall for a period of seven years, and to the satisfaction at all times of the engineer, completely maintain and uphold the line and works, slopes, fencing, drainage, and all the appurtenances of the railway and works executed under this contract, including the ten miles of sidings and the stations, &c., to the value of 66,000*l.*; such maintenance and upholding are to include reproduction whenever necessary, and the providing of all rails, sleepers, fittings, and materials of every description, and the making good of damage or failure of all sorts from any cause whatever, according to the ordinary construction of contracts in this country or India for the complete maintenance and upholding of railways.

CC. No. 1.—Specification referred to in Clause 25 of the General Specification.

Ceylon Railway.

Specification for Rails.

Weight. The weight will be 72 lbs. per yard.

Form, section &c. The form will be the vignolle's or contractor's form, with an adequately broad base, according to the template already adopted, and to which the rails must be accurately rolled.

Variation in weight. No rails will be received varying more than 1 lb. per yard from the weight determined on.

Lengths. The lengths of rail to be 21 feet, but with such proportions of 18 and 15 feet as may be from time to time ordered. No variation from the lengths determined on exceeding one eighth of an inch will be allowed.

Method of manufacture. The entire method of manufacture of the rails, as well as the quality and mode of preparation of the iron used therein, shall be such as the engineer shall decide or fully approve, as calculated in his opinion to produce rails of first-rate quality and description.

Each rail is to be made from a pile not less than 9 inches high by 8½ inches broad, and containing not less than one third of its whole weight of No. 2 iron. The disposal and dimensions of the bars forming the pile will be hereafter determined by the engineer.

All these bars are to be of uniform section, and in whole lengths, no short or irregular shaped pieces, scraps, or rough ends of bars being used.

The rail pile is to be rolled at a welding heat into a bloom of about half the original sectional area, which, being again raised to a welding heat, is to be rolled into the rail.

The manner of making of the No. 2 iron to be used in the pile must be such as is approved by the engineer. Each slab or bar must be worked at two heats, and the pile from which it is formed must be of large size and contain only perfect bars.

The engineer is to have the power of altering the arrangement of the rail pile, or the general method of manufacture, during the progress of the contract in any way he may consider expedient, it being, however, understood that he shall not increase the proportion of No. 2 iron used.

Quality of finished rails.

The quality of the finished rails, as regards toughness and strength, shall be such as is satisfactory to the engineer, who shall have power to test the same at the contractor's expense in any manner he may think fit.

Perfection of manufacture.

The whole of the rails must be of uniform section throughout, and perfectly true and straight; and any that are bent or warped in the manufacture must be straightened by pressure and not by hammering. They shall, moreover, be perfectly sound and free from splits, cracks, flaws, scoriæ, imperfect welds, or defects of any kind; and the ends shall be cut accurately true and square.

Marking.

Each rail is to be stamped on the side distinctly with the maker's name, the month and year of the manufacture, and the initials of the railway.

Holes.

The rails shall be punched with such holes and in such positions as the engineer shall hereafter determine, either for holding down the rails for fishing or for any other purpose.

Any variation of more than $\frac{1}{32}$ of an inch from the correct sizes or positions of the holes will render the rail liable to rejection.

Testing apparatus and labour.

All labour and assistance, tools, gauges, apparatus, &c., which the engineer may require for the purpose of testing, inspection, weighing or gauging the rails, or for otherwise satisfying himself of the due performance of the conditions of the contract, shall be provided by the contractor free of charge either at the works or at the place of shipment, or both, as may be required by the engineer.

Guarantee.

The contractor will be required to enter into a guarantee to supply free of charge new rails to the extent of any which may be certified by the engineer to have failed from defective quality or manufacture at any time not exceeding two years from the time when the portion of railway on which they are shall have been opened for public traffic.

CC. No. 2.—Specification referred to in Clause 25 of the General Specification.

Specification for Fishing Plates.

Section.

The fishing plates are to be $\frac{3}{4}$ inch thick of a section to fit the under side of the head and the upper side of the flange of the rail.

A correct template will be furnished to the contractor, and the plates when finished must exactly correspond therewith.

Length. They are to be 16 inches long, and must be sawn off square without burrs or deformities at the ends.

Perfection in form. They are to be perfectly straight and smooth on every surface, free from twist, and of uniform section throughout.

Material. The description of pile for rolling the fishes, and the kind of material used therein, shall be such as are satisfactory to the engineer, and must be specially sanctioned by him.

The quality of iron in the finished plates shall also be subject to his approval, and they shall be submitted to such test as he may think necessary.

Holes. Each plate must be pierced with four square holes of such dimensions and placed in such positions as the engineer will direct. These holes must be clean and true, square through the plate, and exactly in the centre of the width, free from burrs on either side, and perfectly accurate in size and position. The manner of making the holes shall be such as the engineer shall approve.

Oiling. Every plate is, after the holes are made, to be heated and immersed in boiled linseed oil.

Patent right. The patent right upon the fishes must be paid by the contractor.

CC. No. 3.—Specification referred to in Clause 25 of the General Specification.

Specification for Bolts and Nuts.

General description. The bolts will be $\frac{3}{4}$ inch thick, and $3\frac{1}{2}$ inches long from the under side of the head, which will be half-round. They must be square for half an inch under the head. The nuts will be square.

The bolts and nuts must exactly correspond both in make and dimensions with patterns to be deposited with the engineer, and duplicates of which will be furnished to the contractor.

Weight. They are to weigh one pound each.

Material. The iron is to be of a strong fibrous quality, equal to "best" Staffordshire, and shall be specially subject to the approval of the engineer.

Method of manufacture. The method of manufacture, whether by machinery or by hand, shall be such as the engineer shall approve.

The bolts are to be made from square iron, swaged down, and the heads are to be worked out of the solid, and not welded on.

Workmanship. The workmanship and finish must be fully equal to that of the patterns. The forging is to be perfectly sound, square and true, especial care being taken that the internal faces of the head and nut are exactly square with the axis of the bolt.

The thread is to be Whitworth's standard, to be cleanly cut, and to hold full to within two inches of the head. The nut is to fit so tight upon the bolt that it cannot be moved without a spanner.

The bolt when screwed must pass freely up to its head into a hole $\frac{13}{16}$ of an inch square.

Packing. The bolts and nuts are to be well oiled and packed in good strong casks, well secured and fit for a sea voyage.

CC. No. 4.—SPECIFICATION REFERRED TO IN CLAUSE 25 OF THE GENERAL SPECIFICATION.

Specification for Dog Spikes.

The spikes are to be 6 inches long and $\frac{3}{4}$ inch square, with a wedge point. The head to be $\frac{11}{16}$ deep, and to project $\frac{1}{2}$ inch over the flange of the rail, with ears of $\frac{3}{8}$ by $\frac{11}{16}$, projecting $\frac{1}{8}$ at each side of the head.

The spikes must correspond in make and dimensions with patterns to be deposited with the engineer, and a duplicate of which will be furnished to the contractor.

They shall be made from iron of a strong fibrous quality, and so tough that the head when hammered cold shall bend and not break off with a brittle fracture.

The head is to be worked out of the solid, and neatly formed. The workmanship generally is to be fully equal to that of the pattern.

The spikes to weigh $\frac{9}{10}$ lb. each, or 2,500 to the ton.

The spikes are to be packed in strong casks well secured.

THE SECOND SCHEDULE BEFORE REFERRED TO.

E.

CEYLON RAILWAY.

Form of Tender.

I, W. F. FAVIELL, do hereby offer to make and complete the railway from Colombo to Kandy in accordance with the terms of the specification marked C.C., and within four years from the date of the acceptance of this tender, for the guaranteed amount of 873,039*l.* 12*s.* 4*d.*, which sum is to include all accessories of a perfect and complete railway, excepting the land and the rolling stock, and to include contingencies of every description.

And I hereby offer to maintain and uphold the said railway and works, when completed according to the terms of the said specification, at the following average rates per annum and per mile of main line, that is to say :—

If for one year at the rate of 150*l.* per mile per annum.
If for three years at the rate of 300*l.* per mile per annum.
If for five years at the rate of 300*l.* per mile per annum.
If for seven years at the rate of 300*l.* per mile per annum.

And I hand herewith an estimate in full detail, with quantities and prices, showing the calculations upon which my tender for the construction of the railway is based.

And I undertake in the event of my tender being accepted for the construction of the said railway, to execute, when required, a formal contract, including such terms and conditions as may be required by the Ceylon Government for the due execution of the said railway and works in accordance with the said specification; and I propose J. B. Faviell, of Stockeld Park, Wetherby, and Frederick

Appleby, of Manchester, as my securities, jointly and severally to the amount of 20,000*l.*, for the due fulfilment of my contract; and I hand herewith letters from the said J. B. Faviell and Frederick Appleby, offering to enter into a bond to that effect when called upon by the Ceylon Government to do so.

And in order to afford time for the transmission of this my tender to Ceylon, and for its consideration by the Ceylon Government, I agree that this tender shall be binding upon me for six months from the date hereof.

Dated Down Place, Guildford, this 18th day of July 1862.

(Signed) W. F. FAVIELL.

To the Agents-General for Crown Colonies, London.

Witness to the signatures of Penrose Goodchild Julyan, William Charles Sargeaunt, and William Frederick Faviell, by his attorney, John Joseph Tourle - } PENROSE G. JULYAN. W. C. SARGEAUNT. W. F. FAVIELL.

By me, JOHN J. TOURLE, his attorney.

F. B. BATTEN, solicitor,
32, Great George Street,
Westminster.

W. F. FAVIELL.

Witnesses to the signatures of William Frederick Faviell, this 1st day of April, A.D. 1863, at Colombo.

RICHARD F. MORGAN, Queen's Advocate of Ceylon.
G. W. STORK, Acting Deputy Registrar.

I hereby certify that the Secretary of State for the Colonies has authorized the Agents General for Crown Colonies to enter into this contract on behalf of the Government of Ceylon.

FREDERIC ROGERS,
One of Her Majesty's Under Secretaries of State for the Colonies.

2nd September 1863.

134.

No. 2 OF 1863.

An Ordinance to enable the Crown to take possession of Private Lands for Public Uses, and to survey and assess Lands wanted by private Proprietors to secure access to their Properties through the Lands of others.

Preamble

WHEREAS it is expedient to amend the Ordinance No. 16 of 1843, entitled an Ordinance "For enabling the Governor to cause surveys to be made, and possession taken of lands belonging to individuals for public uses, and also to cause surveys to be

made of such lands, under certain other circumstances," and the Ordinance No. 4 of 1850, entitled an Ordinance "To amend the Ordinance No. 16 of 1843," and to make provision for taking private lands, when necessary, for public uses, and for surveying and assessing lands wanted by private proprietors to secure to them the right of access to their properties through the lands of others: It is enacted as follows:

1. Repealing clause.

2. Whenever it shall appear to the Governor that it is necessary for the public advantage that Her Majesty should obtain possession of any land not belonging to the Crown, and the owners thereof are unwilling or, by reason of any incapacity or disability, or from any other cause, unable to agree with the Government in respect of the same, it shall be lawful for the Governor to direct the Surveyor General to make or cause to be made such surveys thereof as shall enable the Surveyor General to report to the Governor whether the possession of such land will be necessary for the purposes for which they appeared to be necessary as aforesaid; and if, after receiving the report of the Surveyor General, it shall still to the Governor appear necessary that such land should be taken possession of, to issue a commission directed to such person as shall be therein named, authorising him to summon, within a time to be by the said commission limited, and after having affixed on the said lands a notice in writing substantially according to the Form A. in the Schedule hereto, and after having caused the said notice to be published in the town or village within which the land is situate, for the space of three weeks, a jury of seven good and lawful men in the district, not being in the service or employ of Her Majesty, and by their oaths, which the said commissioner is hereby empowered to administer, to assess the amount of compensation to be made in respect of the land, with the buildings standing thereon, and all other the appurtenances thereof, and to return such assessment within a period to be specified in the said commission to the Governor, under the hand of the commissioner.

Governor may require a survey of the lands.

Governor may issue a commission to assess lands.

3. It shall be lawful for such commissioner to enter upon the land, and to cause to enter thereupon all such persons, and to do and cause to be done therein all such things as to them shall appear necessary for the purposes of such assessment, and to require the attendance before him and the jury and to take the examination on oath of every person whose evidence shall be desired; and such commissioner shall make and return the assessment to the Governor under his hand within the time specified.

Commissioner may enter on land.

4. On the return of the assessment, it shall be lawful for the Governor, with the advice and consent of the Executive Council, to direct that the land be taken possession of by some officer of the Crown, for and on behalf of Her Majesty, and that payment be made for the same in manner herein-after provided; and the said officer shall sign a certificate substantially of the Form B., in the schedule hereto, which said certificate, with payment to be made as herein-after provided, shall be taken and considered to

Take possession of the land.

vest the said land and the possession thereof in Her Majesty and her successors, fully and effectually, to all intents and purposes whatsoever, and free from all mortgages and incumbrances, and shall be good and conclusive against all persons whomsoever, whatever right or title they may have or claim to have in the property.

How compensation to be assessed.

5. In assessing the amount of compensation to be made in respect of the land, regard shall be had by the jury not only to the actual value of the land, but also to the damage, if any, to be sustained by the owners thereof by reason of the severing of the same from their other lands, or by reason of such other lands being otherwise injuriously affected.

Penalty on juror or witness not obeying notice.

6. Every person required to attend as a juror or witness by virtue of any commission issued under this Ordinance, who shall fail to attend at the time and place to be specified in a notice signed by the commissioner, to be served upon him or affixed at his dwelling-house, or who, attending, shall refuse to perform the duties of a juror or witness, shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Penalty on witnesses making false statement.

7. Every person examined as a witness before any commissioner and jury, who shall knowingly and wilfully make any false statement relevant to any matter or thing into which such commissioner and jury have authority to inquire, shall be guilty of perjury.

Penalty on corrupting or intimidating juror.

8. Every person who shall corruptly influence, or attempt corruptly to influence, or hold out any threats to any person attending or noticed to attend as a juror, in relation to his conduct as a juror, and every person who shall act dishonestly or corruptly in respect of his office of juror, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding twenty pounds, or to imprisonment with or without hard labour for two years.

Access through Private Properties.

Proceeding to secure access to private property through lands of others.

9. Whenever it shall appear to the Governor and the Executive Council that any private party cannot obtain free and sufficient access to his property, except through the property of some other private party, and that it is necessary (with the view of introducing if need be a legislative enactment for that purpose) to assess the amount of remuneration to which the owner of such latter-mentioned property would be entitled for giving such access; it shall be lawful for the Governor to direct the Surveyor General to make or cause to be made surveys of such lands as shall enable him to report how far such access is required, and along what line and over what extent of land the same ought to be given; and if, after receiving the report of the Surveyor General, it shall still to the Governor and Executive Council appear necessary that such access should be given, to issue a commission in manner hereinbefore provided for the assessment of the remuneration to which the owners of the lands through which the right of access is proposed to be given shall be entitled, and the commissioner appointed thereunder shall have the same authority, and shall proceed in the same manner, to execute such commission as is provided in respect

of the commission to be issued under the 2nd section, and the jurors and witnesses shall be subject to the same liabilities as are herein-before specified : Provided that the expences attending all such commissions, and all proceedings taken thereunto and relating thereto, shall be borne by the party applying for such right of access, and shall, if so required, be deposited in the general treasury beforehand.

Payment for Lands taken.

10. The amount of the compensation, as assessed, shall be paid to the person or persons entitled to the said lands, or, in case of death, disability, or incapacity, to their legal representatives ; in case the lands shall belong to or be held in right of any church, chapel, or temple, or shall be held in trust for charitable or other purposes, then and in every such case the said amount shall be paid to one or more of the trustees, if any, of the said church, chapel, or temple, or of the said trust for charitable or other purposes; and in case there be no trustee of the said church, chapel, or temple, then to the officiating minister of the said church or chapel, or the chief incumbent, holder, or manager of the said temple ; and on the said amount being paid to the person or persons to whom the same may be paid as aforesaid, the said person or persons shall, if required to do so, execute a conveyance in due form of the said lands to Her Majesty and her successors.

To whom payment of compensation is to be made.

11. If upon tender by the Government Agent of the district wherein the said lands are situated, or of any party authorized by him, of the amount to the persons to whom the same may be paid as aforesaid, they shall refuse to receive the same, or shall, when so required, refuse or neglect to execute a conveyance of the said lands ; or if the person or persons alleged to be entitled to the said lands, or to whom the said amount may be paid as aforesaid, shall fail to adduce a good title to the lands, or if before payment of the said amount any dispute shall arise, or any adverse claims be made in respect of the ownership of the lands, or in respect of the persons to whom the said amount shall be paid; or if the persons entitled to the lands shall labour under disability or incapacity, and shall not be duly represented, or shall be absent from the Island, or if no such persons can be found ; then and in every such case the amount shall be deposited in the treasury, to the credit and for the use of the persons entitled to receive the same, and shall be accompanied with a statement showing why the same was deposited.

When the amount may be deposited in the general treasury.

12. The amount so deposited shall remain in the treasury until a competent court shall adjudge who the party is entitled to receive the same; but if the persons raising any dispute or making any claim, or for whom the same shall be raised or made, shall, without labouring under any disability or incapacity, not prosecute his claim within one year from the time of the said amount being deposited, the same shall be paid over to the party who first alleged himself to be entitled to the said lands, or to receive the amount in any of the capacities herein-before mentioned, as being the capacity in which the said amount may be paid to him. If the

Disposal of amount deposited in the treasury.

amount shall be so deposited, by reason of the person or persons entitled to the lands or to whom the said amount may be paid as aforesaid being absent from the Island, or by reason that the said person or persons cannot be found, the said amount shall be forfeited to and become the property of the Crown, if not claimed by such person or persons, or by some person authorized by him, within ten years from the date of such deposit.

If land affected by mortgage.

13. If any such lands so taken possession of as aforesaid shall be subject to any mortgage, the sum due in respect of the mortgage shall be paid to the mortgagee, provided that it shall not amount to more than the value of such lands as assessed as aforesaid, and that the mortgage shall not be disputed by alleged mortgagor, or some person on his behalf; and where such mortgage shall be disputed, the sum alleged to be due in respect thereof, provided that it shall not amount to more than the value of such lands so assessed as aforesaid, shall be deposited in the treasury to await judicial decision as to the validity of such mortgage; and if the alleged mortgagee shall not make claim before some competent court in respect of the sum so deposited within two years after such deposit shall have been made, the amount shall be paid over to the alleged mortgagor or his representatives; if no person shall give notice of claim of mortgage before the Governor shall have issued his directions that any lands shall be taken possession of by the Crown, such lands shall for ever after such direction shall have been issued as aforesaid be discharged and free of every such mortgage or incumbrance.

Surveys of Lands.

Surveyor may enter into lands.

14. Whenever the Governor shall call for a survey of any private lands wanted for public uses, or through which access is required, it shall be lawful for the Surveyor General, or any of his assistants, to enter upon or cause to be entered upon such lands by such persons as they shall deem necessary, and who shall have been duly authorized by them in that behalf in writing, and to survey such lands, or cause the same to be surveyed.

Proviso as to any injury done in course of survey, &c.

15. If in the execution of any survey, or of any commission authorized by this Ordinance, any injury shall be done to any land or premises, or to anything thereupon, and such land or premises shall not be eventually taken possession of by the Government, or if a right of access through such land or premises shall not be eventually given to the party making application for the same, full compensation for all such injury shall be made to the owner of such land or premises by the Government, or by such party, as the case may be.

Surveyor General, &c. may demand production of title deeds.

16. It shall be lawful for the Surveyor General, or for any person authorized in that behalf under his hand, whenever it shall to him appear necessary for the purposes of any survey to be made under the authority of this Ordinance, to demand in writing of the person claiming to be the owner of any land or premises, or of his agent, or of the occupier of any such land or premises, the production of every deed, document, and instrument upon which such first-mentioned

person founds such claim. And if such agent, or the occupier of any such land or premises, shall refuse to give full information respecting the name and residence of the alleged owner, and of the person by whom such agent or occupier is employed, and in whose possession the said deeds, documents, and instruments are, upon being requested so to do by the Surveyor General, or on his behalf as aforesaid, or if such alleged owner or agent or occupier shall refuse to produce to the Surveyor General, or to any person on his behalf, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land or premises, and which shall be in his possession, or if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform the Surveyor General, or any person on his behalf, upon application, in whose possession they are; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by the Surveyor General, or on his behalf, every such agent, occupier, alleged owner, and person so refusing shall be guilty of an offence, and be liable, on conviction thereof, to any fine, not exceeding five pounds.

17. Every person molesting, resisting, or obstructing the Surveyor General, or any person acting under his orders, or any commissioner of valuation or juror, or any person acting in the execution of any duty or authority imposed or vested in him by or under this Ordinance, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds.

Penalty on obstructing Surveyor General, &c.

18. If the Surveyor General, or any of his assistants, or any person acting under the orders of their assistants, or if any commissioner of valuation, or any person acting under his order, or if any juror or other person shall, under pretence of performing any duty or exercising any privilege imposed on or vested in him by or under this Ordinance, use unnecessary violence or wantonly do any injury, or give uncalled-for and vexatious annoyance, every such officer or person shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds.

Penalty on abuse of power by Surveyor General.

19. Has had its effect.

SCHEDULE.

Form A.

This is to give notice that I have been appointed under a commission issued by His Excellency the Governor on the day of to ascertain the value of (*here give a general description of the land*) alleged to be the property of with a view to the same being taken possession of for the use of Her Majesty, and that we shall proceed to execute the said commission at on

(Signed) *A.B.*

Form B.

I hereby certify that I have this day taken possession for and on behalf of Her Majesty, under and by virtue of the provisions of the Ordinance No. of entitled of the land and premises situated at and bounded on the and more particularly described in the annexed survey thereof.

Date

(Signed) *C.D.*

2nd September 1863.

135.

No. 3 of 1863.

An Ordinance to amend the Ordinance No. 14 of 1862.

Preamble.

Whereas it is expedient to amend the Ordinance No. 14 of 1862, entitled "An Ordinance for the Prevention of Accidents by Gunpowder:" It is enacted as follows:

Ordinance No. 14 of 1862 not to apply to gunpowder of Her Majesty, or in custody of public officers.

1. Nothing in the said Ordinance contained shall apply or be held to apply to gunpowder belonging to Her Majesty the Queen, or in the custody of any officer belonging to Her Majesty's military or naval service, or of any officer in the service of the Government of this Colony, while acting in the discharge of his duty.

This Ordinance and No. 14 of 1862 to be read as one.

2. This Ordinance and the Ordinance No. 14 of 1862 shall be read and construed as if they formed one Ordinance.

2nd September 1863.

136.

No. 4 of 1863.

An Ordinance to authorize District Courts to institute Inquiries into Wrecks.

Preamble.

Whereas it is expedient to authorize district courts to exercise the powers set out in certain Acts of the Imperial Parliament, to wit, "The Merchant Shipping Act, 1854" (section 242), and "The Merchant Shipping Act Amendment Act, 1862" (sections 23 and 24), and with this view to modify some of the provisions in the Ordinance No. 5 of 1861, entitled "An Ordinance relating to Wrecks, Sea Casualties, and Salvage:"

It is enacted as follows :

1. Repealing clause.

2. In any of the cases following ; (that is to say,)

Inquiries to be instituted in cases of wreck and casualty.

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of Ceylon ;

Whenever any ship causes loss or material damage to any other ship on or near such coasts ;

Whenever by reason of any casualty happening to or on board of any ship on or near such coast loss of life ensues ;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in Ceylon ;

It shall be lawful for the Receiver of Wrecks residing at or nearest to the place where such loss, abandonment, damage, or casualty occurred, if the same occurred on or near the coasts of Ceylon, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found, or can be conveniently examined, or for any other person appointed for that purpose by the Governor, to make inquiry respecting such loss, abandonment, damage, or casualty.

Formal investigation before justice.

3. If it appears to such officer or person as aforesaid, either upon or without any such inquiry as aforesaid, that a further investigation is expedient, or if the principal collector of customs so directs, he shall apply to any district judge to hear the case, and such district judge shall thereupon proceed summarily to hear and try the same, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint over which he has jurisdiction, or as near thereto as circumstances permit ; and it shall be the duty of such officer or person as aforesaid to superintend the management of the case, and to render such assistance to the said judge as is in his power.

Power to appoint nautical assessor.

4. In cases where nautical skill and knowledge are required, the principal collector of customs shall have the power, either at the request of such judge or at his own discretion, to appoint some person of nautical skill and knowledge to act as assessor to such judge ; and such assessor shall, upon the conclusion of the case, either signify his concurrence in the report by signing the same, or if he dissents therefrom, shall signify such dissent and his reasons therefor to the principal collector of customs. And it shall be lawful for the Governor to allow the assessor such reasonable compensation for his services as to the Governor shall seem fit.

Remuneration to assessor.

District judge may suspend or cancel certificates.

5. The hearing of the case being concluded, the district judge may proceed, if need be, to suspend or cancel the certificate of any master, mate, or certificated engineer, and to demand the delivery of the same, as authorized by the 23rd and 24th sections of "The Merchant Shipping Act Amendment Act, 1862," conforming in every respect to the directions therein contained.

Report must be submitted to the Governor.

6. The report to the Board of Trade required by the 23rd section of "The Merchant Shipping Act Amendment Act, 1862," must in the first instance be submitted to the Governor for the confirmation required by the 242nd section of "The Merchant Shipping Act, 1854."

This Ordinance and No. 5 of 1861 to be taken as one.

7. This Ordinance and the Ordinance No. 5 of 1861 shall be read and construed as if they formed one Ordinance.

SCHEDULE.

Sections of Acts above referred to.

The Merchant Shipping Act, 1854.

Cl. 242. "The Board of Trade may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases; (that is to say,)

(1.) If upon any investigation made in pursuance of the last-preceding section he is reported to be incompetent, or to to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

(2.) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as herein-after mentioned, it is reported that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default.

(3.) If he is superseded by the order of any admiralty court or of any naval court constituted as herein-after mentioned.

(4.) If he is shown to have been convicted of any offence.

(5.) If upon any investigation made by any court or tribunal authorized, or hereafter to be authorized, by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default, and such report is confirmed by the Governor or person administering the Government of such possession.

And every master or mate whose certificate is cancelled or suspended shall deliver it to the Board of Trade, or as it directs, and in default shall for each offence incur a penalty not exceeding 50*l.*; and the Board of Trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade."

Merchant Shipping Act Amendment Act, 1862.

Cl. 23. "The following rules shall be observed with respect to the cancellation and suspension of certificates; (that is to say,)

(1.) The power of cancelling or suspending the certificate of a master or mate by the 242nd section of the principal Act conferred on the Board of Trade, shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, admiralty court, or other court or tribunal by which the case is investigated or tried, and shall not in future vest in or be exercised by the Board of Trade.

(2.) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if 'certificated engineer' or 'certificated engineers' were inserted throughout such section after 'master' or 'masters.'

(3.) Every such board, court, or tribunal shall at the conclusion of the case, or as soon afterwards as possible, state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the Board of Trade; and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their report.

(4.) It shall be lawful for the Board of Trade, if they think the justice of the case require it, to re-issue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended.

(5.) The 434th and 437th sections of the principal Act shall be read as if for the word 'nautical' were substituted the words 'nautical or engineering,' and as if for the word 'person' and 'assessor' respectively, were substituted the words 'person or persons' and 'assessor or assessors' respectively.

(6.) No certificates shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.

Cl. 24. Every master or mate or engineer whose certificate is or is to be suspended or cancelled in pursuance of this Act shall, upon demand of the board, court, or tribunal by which the case is investigated or tried, deliver his certificate to them; or if it is not

demanded by such board, court, or tribunal, shall, upon demand, deliver it to the Board of Trade, or as it directs, and in default shall for each offence incur a penalty not exceeding 50*l.*"

16th September 1863.

137.

No. 7 of 1863.

An Ordinance relating to Merchant Shipping.

Preamble.

Whereas, by Section CCLXXXVIII. of an Act of the Imperial Parliament called "The Merchant Shipping Act, 1854," it is enacted, that "if the respective legislative authorities in any "British possession abroad, by any Acts, Ordinances, or other "appropriate legal means, apply or adapt any of the provisions in "the third part of this Act contained to any British ships regis-"tered at, trading with, or being at any place within their re-"spective jurisdictions, and to the owners, masters, mates, and "crews thereof, such provisions, when so applied and adapted as "aforesaid, and as long as they remain in force, shall, in respect of "the ships and persons to which the same are applied, be en-"forced, and penalties and punishments for the breach thereof "shall be recovered and inflicted throughout Her Majesty's "dominions, in the same manner as if such provisions had been "hereby so adapted and applied, and such penalties and punish-"ments had been hereby expressly imposed:" And whereas it is expedient to apply to ships registered at, trading with, or being at any place within the limits of Ceylon, certain provisions of the third part of the said Act, with such adaptations and modifications as are required by the circumstances of this Island: It is enacted as follows:

Interpretation.

1. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) the expression "coastwise ship" shall include every ship employed in trading between any ports of this Island, or between any such ports and any port on that part of the coast of India between Madras and Cochin inclusively; the expression "foreign-going ship" shall include every ship employed in trading to ports or places beyond the jurisdiction of the Island of Ceylon, excepting that part on the coast of India herein-before described; the word "master" shall include every person (except a pilot) having command or charge of any ship; the word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship; "ship" shall include every description of vessel used in navigation not

propelled with oars; and the word "person" shall include a corporation.

Appointment of Superintendent.

2. The principal Collector of Customs shall throughout Ceylon have the general superintendence of all matters relating to this Ordinance, and it shall be lawful for the Governor to appoint any officer of customs, or any other person to be shipping officer at any port, and to perform such duties as are herein-after mentioned. Due notice of every such appointment shall be published in the "Government Gazette."

Principal Collector of Customs to be superintendent. Governor to appoint shipping officers.

Shipping Offices.

3. A shipping office shall be established at each of the ports of Colombo, Galle, Trincomalie, and Jaffna, and at such other ports as the Governor shall hereafter deem necessary. For every such office there shall be a superintendent, to be called a "shipping officer," with such necessary deputies, clerks, and servants, at such salaries or other allowances, and subject to such regulations, as the Governor shall from time to time direct and appoint. Every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping officer.

Shipping offices.

4. The whole or any part of the business of the shipping office shall be conducted at the Custom House, or at the office of the master attendant or harbour master, or at such other office as the Governor shall direct; and in respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer of customs or other officer there to whom such business is committed, shall for all purposes be deemed to be a shipping officer within the meaning of this Ordinance.

Business of shipping office may be transacted at Custom House or elsewhere.

5. It shall be the general business of shipping officers to superintend and facilitate the engagement and discharge of seamen in manner herein-after mentioned, and to perform such other duties relating to merchant seamen and merchant ships as are hereby, or under the said Merchant Shipping Act, 1854, or as may hereafter under the powers herein contained, be committed to them. It shall also be the duty of shipping officers to give to all persons desirous of apprenticing boys to the sea service, and also to masters and owners of ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.

Business of shipping officer.

6. Such fees, not exceeding the sums specified in the table marked (A.) in the Schedule to this Ordinance, as are from time to fixed by the Governor, shall be payable to the shipping officers upon all engagements and discharges effected before shipping officers as herein-after mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the shipping offices; and all shipping officers, their deputies, clerks, and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees to be paid upon engagements and discharges.

Fees by whom to be paid, &c.

7. Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping officer, shall pay to the shipping officer the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in the table marked (B.) in the Schedule hereto: Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping officer in addition to such fee.

Penalty on shipping officer taking other remuneration.

8. Any shipping officer, deputy shipping officer, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Ordinance, shall for every such offence incur a penalty not exceeding 20*l.*, and may be dismissed from his office.

Examinations and Certificates of Masters and Mates.

Examinations.

9. Examinations shall be instituted for persons who intend to become masters or mates of ships registered in this Island of the burthen of 50 tons and upwards, or who wish to procure certificates of competency herein-after mentioned; and persons commanding or employed in vessels of less than 50 tons burthen may, if so disposed, be examined with the view to obtaining such certificates of competency.

Local Government to appoint examiners.

Rules for conduct of examination.

Fees.

10. The Governor shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and shall make rules for the conduct of such examinations, and as to the qualifications to be required. Fees at the following rates shall be paid to the examiners by all applicants for examination:

	£	s.	d.
For a certificate as master - -	1	0	0
Ditto ditto as mate - -	0	10	0

Certificates of competency.

11. The examiners shall deliver to every applicant who has passed the examination satisfactorily, and has given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (herein-after called a "certificate of competency") to the effect that he is competent to act as master or mate of the class of vessels aforesaid.

Certificates of services.

12. Certificates of service, differing in form from certificates of competency, shall be granted as follows; (that is to say,)

(1.) Every person who, before the passing of this Ordinance, has served as master, or who has attained or attains the rank of lieutenant, master, passed mate, or second mate, or any higher rank, in the service of Her Majesty, or of the late East India Company, shall be entitled to a certificate of service as master.

(2.) Every person who before the passing of this Ordinance has served as mate in the British merchant service, or as mate of any such ship as aforesaid, shall be entitled to a certificate of service as mate:

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the examiner shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid, and producing, in addition thereto, certificates of good character and sobriety.

No ship of 50 tons to go to sea without certificated master, &c.

13. No ship registered in this Island of a burthen of 50 tons or upwards shall go to sea from any port in this Island unless the master, and one officer besides the master, have obtained and possess valid and appropriate certificates either of competency or service under this Ordinance, or under the British or Indian Merchant Shipping Acts; and whosoever, having been engaged to serve as master or mate, goes to sea as such master or mate without being at the time entitled to and possessed of such a certificate as herein-before required, and whosoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be liable to a penalty not exceeding 20*l.*

Record of grants, cancellations, &c. of certificates.

14. Every certificate, whether of competency or service, shall be made in duplicate; one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the principal Collector of Customs. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate, in pursuance of the powers herein contained, shall be entered in the record of certificates.

Loss of certificate.

15. Whenever any master or mate proves to the satisfaction of the principal Collector of Customs that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate shall, on payment of a fee of five shillings, be delivered to him, and such copy shall have all the effect of the original.

Engagement of Seamen.

Licenses to procure seamen.

16. The Governor may authorize the granting to such persons as may be deemed fit of licenses to engage or supply seamen for merchant ships, such licenses to continue for such periods, and upon such terms, and to be revocable upon such conditions, as the Governor thinks proper and shall direct. If after such license shall be granted at any port any person shall engage or supply seamen for merchant ships without a license, he shall be liable to a fine not exceeding five pounds.

Agreements with seamen.

17. The master of every ship of the burthen of 50 tons and upwards, other than a coastwise ship, shall enter into an agreement with every seaman whom he carries to sea from any port in this Island as one of his crew, in the manner herein-after mentioned; and every such agreement shall be in a form sanctioned by the Governor, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say,)

1. The nature and, as far as practicable, the duration of the intended voyage or engagement:
2. The number and description of the crew, specifying how many are engaged as sailors:
3. The time at which each seaman is to be on board or to begin work:
4. The capacity in which each seaman is to serve:
5. The amount of wages which each seaman is to receive:
6. A scale of the provisions which are to be furnished to each seaman:
7. And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Ordinance), as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law; provided, that if the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew made in due form according to the law of the place to which such ship belongs or in which her crew were engaged, and engages single seamen in any port within this Island, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement under this Ordinance: Provided also, that in the case of Ceylon or Indian seamen, when it shall be agreed that the service of any such seamen shall end at any port not in this Island, the agreement shall contain stipulations for providing for such seamen fit employment on board some other vessel bound to the port at which they were shipped, or such other port as may be agreed on, or for providing them a passage to some such port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel or by the master on his behalf, and shall be binding upon the said owner.

Proviso as to forms for British or colonial ships.

Proviso where Ceylon or Indian seamen are shipped.

Agreements, except in special cases, to be made before and attested by a shipping officer.

18. In the case of all ships, in whatever part of Her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say,)

Agreement to be signed by seamen.

(1.) Every agreement made in any port of this Island (except in such cases of agreements with substitutes as are herein-after specially provided for) shall be signed by each seaman in the presence of a shipping officer:

(2.) Such shipping officer shall cause the agreement to be read over and explained to each seaman in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature : Shipping officer to cause agreement to be explained to seamen.

(3.) When the crew is first engaged the agreement shall be signed in duplicate, one shall be retained by the shipping officer, and the other (which shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship) shall be delivered to the master : To be in duplicate.

(4.) In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea, by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping officer duly appointed in the manner herein-before specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures. Provision for substitutes.

19. In the case of ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, or for a period not exceeding twelve months, so that no such agreement shall extend beyond the next following 31st day of December of each year, or the first arrival of the ship at her port of destination within this Island after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in any port within the said Island, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships. Ships making short voyages may have running agreements.

20. The master of every ship for which such a running agreement as aforesaid is made, shall upon every return to any port of this Island before the final termination of the agreement discharge or engage before the shipping officer at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as herein-before required, and shall deliver the agreement so endorsed to the shipping officer; and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding 20*l.* ; and the shipping officer shall also sign Engagement and discharge of seamen in the meantime.

an endorsement on the agreement to the effect that the provisions of this Ordinance relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

Fees to be paid on such running agreements.

21. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In coastwise ships, or ships of less than 50 tons, agreements may be entered into before a shipping officer.

22. In the case of coastwise ships, or of ships of less than 50 tons burthen, crews or single seamen may, if the master thinks fit, be engaged before a shipping officer in the manner hereinbefore directed with respect to ships of 50 tons burthen and upwards.

Penalty for shipping seamen without agreement duly executed.

23. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence incur a penalty not exceeding five pounds.

Foregoing provisions applicable to foreign ships shipping British or Ceylon or Indian seamen.

24. The foregoing provisions relative to the engagement of and agreements with seamen shall be applicable also in respect of all ships belonging to the subjects of any foreign state upon which any British or Ceylon or Indian seamen may be shipped at any port within this Island.

To prevent infraction of Ordinance, shipping officer may board vessels and muster seamen.

25. For the purpose of preventing any seamen from being shipped at any port in this Island contrary to the provisions of this Ordinance, the shipping officer by himself or his deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein ; and any person who shall obstruct the said shipping officer or deputy in such duty shall be liable to a penalty not exceeding five pounds.

Production of agreements and certificates.

26. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for ships ; (that is to say,)

1. The master shall, on signing the agreement with his crew, produce to the shipping officer before whom the same is signed the certificates of competency or service which the said master and his mate are hereby required to possess ; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping officer shall sign and give to the master a certificate to that effect.
2. In the case of running agreements for ships, the shipping officer shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping officer the certificate of competency or service of any mate then first engaged by him, a certificate to that effect.

3. The master shall, before proceeding to sea, produce the certificate so to be given to him by the shipping officer as aforesaid to the collector of customs, and no officer of customs shall clear any ship outwards in respect of which agreements and certificates are herein-before required without such production ; and if any such ship attempts to go to sea without a certificate, any such officer may detain her until such certificate as aforesaid is produced.
4. The master shall, within forty-eight hours after the ship's arrival at her final port of destination within this Island, or upon the discharge of the crew, whichever first happens, deliver the agreement to a shipping officer at such port ; such shipping officer shall thereupon give to the master a certificate of such delivery ; and no officer of customs shall clear any ship inwards in respect of which agreements and certificates are herein-before required without the production of such certificate.

And if any master fail to deliver the agreement to a shipping officer at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

Alterations to be void unless attested to have been made with the consent of all parties.

27. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Ordinance (except additions so made as herein-before directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's dominions) of some shipping officer, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British consular officer, or where there is no such officer, of two respectable British merchants.

Copy of agreement to be made accessible to crew.

28. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall incur a penalty not exceeding five pounds.

Seamen discharged before voyage to have compensation.

29. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Regulation of Advances.

Regulation of advances and advance notes.

30. No advance of wages shall be made or advance note given to any person but the seaman himself ; and no advance note shall

be given to any seaman who signs the agreement before a shipping master, unless in the presence of such shipping master.

Advances irregularly or improperly made not to be a discharge of wages.

31. If any advance of wages is made or any advance note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance note given; and in the case of any advance note so given no person shall be sued thereon under the provisions herein-after contained, unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

Allotment of Wages.

Regulations as to allotment notes.

32. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made.

Allotment notes may be sued on summarily by certain persons and under certain conditions.

33. The person in whose favour an allotment note of part of the wages of such seaman is made may, unless the seaman is shown in manner herein-after mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note; and in any such proceeding it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Ordinance is required, or by a duly certified copy of some entry in the official log book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Discharge and Payment of Wages.

Discharge from ships to be made before shipping officer.

34. All seamen discharged from any ship at any port within this Island, in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a shipping officer duly appointed under this Ordinance, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages in any other manner, shall incur a penalty not exceeding five pounds.

Master to deliver account of wages.

35. Every master of such ship shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him,

or, if he is to be discharged before a shipping officer, to such shipping officer, a full and true account of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds ; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered ; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

36. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, specifying the period of his services and the time and place of his discharge; and if any master fail to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding five pounds ; and the master shall also, upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding five pounds.

Shipping officer may decide questions which parties refer to him.

37. Every shipping officer shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any court of justice be deemed to be conclusive as to the rights of the parties ; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.

Masters and others to produce ship's papers to shipping officer, and give evidence.

38. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping officer under the provisions of this Ordinance, such shipping officer may call upon the owner or his agent, or upon the master, or any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping officer, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.

Settlement of wages.

39. The following rules shall be observed with respect to the settlement of wages; (that is to say,)

Release to be signed before and attested by the shipping officer.

(1.) Upon the completion before a shipping officer of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the shipping officer, sign a mutual release of all claims in respect of

the past voyage or engagement, and the shipping officer shall also sign and attest the release and shall retain the same.

To be a discharge;

(2.) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

and to be evidence.

(3.) A copy of such release, certified under the hand of such shipping officer to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

No other receipt to be a discharge.

(4.) In cases in which discharge and settlement before a shipping officer are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

Voucher to be given to master, and to be evidence.

(5.) Upon any payment being made by a master before a shipping officer, the shipping officer shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

Legal Rights to Wages.

Right to wages and provisions when to begin.

40. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to give up certain rights.

41. No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Ordinance, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Wages not to be dependent on the earning of freight.

42. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores, shall bar his claim.

In case of death, such wages to be

43. If any seaman or apprentice to whom wages are due under the last preceding enactment dies before the same are paid, they

shall be paid and applied in the manner herein-after specified with regard to the wages of seamen who die during a voyage.

paid as after mentioned.

44. In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage, granted under the provisions of the British or Indian Merchant Shipping Acts, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Rights to wages in case of termination of service by wreck or illness.

45. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work ; nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

46. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens ; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one fourth part of the balance due to him ; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid ; and such sum shall be recoverable as wages.

Period within which wages are to be paid.

Mode of recovering Wages.

47. Any seaman or apprentice, or any person duly authorized on his behalf, may sue in the Court of Requests established for the place at which the service has terminated, or at which the seaman has been discharged, or at which any person upon whom the claim is made is or resides, although the amount in suit may exceed the sum of ten pounds ; and every order made by such court in the matter shall be final, and may be enforced by execution against the ship, as well as against the person and property of the owner or master, anything in any former law or ordinance to the contrary notwithstanding.

Seamen may sue for wages in a summary manner.

48. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Ordinance or by any law or custom any seaman, not being a master, has for the recovery of his wages ; and if in any proceeding in any court touching the claim of a master to wages any right of set-off or counter claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions, and to settle all accounts then arising or outstanding

Master to have same remedies for wages as seamen.

and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

Wages and Effects of deceased Seamen.

Master to take charge of effects of deceased seamen.

49. Whenever a seaman or apprentice, on a voyage which is to terminate at any port within this Island, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board ; and shall, if he think fit, cause all or any of the said clothes and effects to be sold by auction, and shall enter in the official log book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects the sum received for each article sold.

Effects and wages to be delivered and paid to shipping officer, with full accounts.

50. The master shall, within forty-eight hours after his arrival at his port of destination in this Island, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the shipping officer at such port, and shall give to such shipping officer an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is an official log book, by the entry therein herein-before required, and also by such other vouchers (if any) as may be reasonably required by the shipping officer to whom the account is rendered.

Penalties for not taking charge of or accounting for such monies and effects.

51. If the master fail to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as herein-before respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the shipping officer as aforesaid, and shall pay and deliver the same accordingly; and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or if such value is not ascertained not exceeding fifty pounds. All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seaman may be paid without probate.

52. When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a shipping officer, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the shipping officer thinks proper to allow, the shipping officer may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said shipping officer to be entitled thereto, and the said shipping officer shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered.

Unclaimed wages.

53. In cases of wages or effects of deceased seamen or apprentices received by any shipping officer as aforesaid to which no claim is substantiated within one year from the receipt thereof by such shipping officer, it shall be in the discretion of the shipping

officer, subject to the orders of the Governor, if any subsequent claim is made, either to allow or refuse the same. And every shipping officer shall pay into the Treasury of this Island all monies arising from the unclaimed wages and effects of deceased seamen to which no claim has been preferred within the period aforesaid, after having given notice of such unclaimed monies being in his possession by advertisement in some public paper at least twice during such period. And such monies shall be brought to account as revenue, if not claimed within two years from the date of such payment into the Treasury.

Provisions, Health, and Accommodation.

Survey of provisions and water on complaint made.

54. Any three or more of the crew of any British ship registered at, trading with, or being at any port or place within the said Island may complain to any shipping officer or other officer duly appointed in this behalf by the Governor, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity, and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall (if such examination be made by a person not a shipping officer) send a report thereof to the shipping officer, and such report, if produced out of the custody of such shipping officers, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

55. If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

56. In the following cases; that is to say,

1. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore):

2. If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use:

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums to be paid to him in addition to and to be recoverable as wages; (that is to say,)

1. If his allowance is reduced by any quantity not exceeding one third of the quantity specified in the agreement, a sum not exceeding 4½*d.* per diem in the case of a European seaman, or 1½*d.* per diem in the case of a Ceylon or Indian seaman:
2. If his allowance is reduced by more than one third of such quantity, a sum not exceeding 9*d.* per diem in the case of a European seaman, or 3*d.* per diem in the case of a Ceylon or Indian seaman:
3. In respect of such bad quality as aforesaid, a sum not exceeding 1*s.* per diem in the case of a European seaman, or 4½*d.* per diem in the case of a Ceylon or Indian seaman.

But if it be shown that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such circumstances shall be taken into consideration, and shall be held to modify or refuse compensation, as the justice of the case may require.

Master to keep weights and measures on board.

57. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities; and in default shall for every offence incur a penalty not exceeding five pounds.

Expense of medical attendance and subsistence in case of illness how to be defrayed.

58. Whenever the master or any seaman of any ship registered at any place within the said Island shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped, or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel, without any deduction on that account from the wages of such master or seaman; and if paid by himself may be recovered as part of his wages; and if paid or allowed out of any monies belonging to the Government of this Island may be recovered from such owner, with full costs of suit, as a debt due to Government.

Shipping officer, &c. may enter on board any ship and inspect provisions, &c.

59. The shipping officer at any port in the said Island, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port and inspect the provisions and water provided for the use of the crew prescribed by this Ordinance, or by any British or Indian Merchant Shipping Acts. If on inspection the provisions or water are

found to be of bad quality and unfit for use, or to be deficient in quantity, the shipping officer shall proceed as provided in section 54 of this Ordinance, and the penalty prescribed in the said section shall be incurred by any default of the master of the ship in respect of such provisions or water.

Procedure if provisions, &c. are found to be of a bad quality.

Boats for sea-going Ships.

60. The following rules shall be observed with respect to boats and life-buoys ; (that is to say,)

Boats for sea-going ships.

Rules as to boats and life-buoys.

1. No decked ship shall proceed to sea from any place in this Island unless she is provided, according to her tonnage, with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than the boats, the number and cubic contents of which are specified in the table marked C. in the schedule thereto for the class to which such ship belongs.
2. No ships carrying more than twenty-five passengers shall proceed to sea from any place in this Island unless, in addition to the boat herein-before required, she is also provided with an additional boat furnished with all requisites for use.
3. No such ship shall proceed to sea unless she is also provided with two life-buoys, and such boats and life-buoys shall be kept so as to be at all times fit and ready for use.

61. In any of the following cases ; (that is to say,)

Penalty on masters and owners, &c. neglecting to provide boats and life-buoys.

1. If any ship herein-before required to be provided with boats or life-buoys proceeds to sea without being so provided therewith, or if any of such boats or life-buoys are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master ; or,
2. If, in case of any of such boats or life-buoys being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity ; or,
3. If such boats and life-buoys are not kept so as to be at all times fit and ready for use, then, if the owner appears to be in fault, he shall incur a penalty not exceeding fifty pounds, and if the master appear to be in fault he shall incur a penalty not exceeding ten pounds.

62. No officer of customs shall grant a clearance for any ship herein-before required to be provided with boats or with life-buoys unless the same is duly so provided ; and if any such ship attempts to go to sea without such clearance any such officer may detain her until she is so provided.

Officers of customs not to clear ships not complying with the above provisions.

Power of making Complaints.

63. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a magis-

Seamen to be allowed to go

ashore to make complaint to a magistrate.

trate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding five pounds.

Protection of Seamen from Imposition.

Sale of and charge upon wages to be invalid.

64. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable; provided that nothing herein contained shall be held to invalidate payments made by virtue of allotments under the 32nd section.

No debt exceeding six shillings recoverable till end of voyage.

65. No debt exceeding in amount 6*s.* incurred by any seaman after he has engaged to serve shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house keepers.

66. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding five pounds.

Penalty for detaining seamen's effects.

67. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging, or otherwise, or absconds therewith, he shall incur a penalty not exceeding five pounds, and any magistrate may, besides inflicting such penalty, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons not to go on board before the final arrival of ship without permission.

68. Every person who, not being in the service of Her Majesty, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any police officer, to be by him taken before a magistrate to be dealt with according to the provisions of this Ordinance.

Penalty for solicitations

69. If within twenty-four hours after the arrival of any ship at any port in this Island any person then being on board such

ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction, and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

by lodging-house keepers.

Discipline.

70. Any master of or any seaman or apprentice belonging to any British ship, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labour, for a term not exceeding two years.

Penalty for misconduct endangering ship or life or limb.

71. If the Governor, on the information of any shipping officer, or on any other ground, has reason to believe that any master or mate who has obtained a certificate of competency or service under this Ordinance, is from incompetency or misconduct unfit to discharge his duties, he may direct any tribunal, board, or officer at or near to the place at which it may be convenient for the parties and witnesses to attend to institute an investigation; and thereuopn such tribunal, board, or officer shall conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and shall, for the purpose of such investigation, have all the powers vested in magistrates of summoning and examining witnesses, and may make such order with respect to the costs of such investigation as they may deem just, and shall on the conclusion of the investigation make a report upon the case to the Governor.

Power to investigate cases of alleged incompetency and misconduct.

72. The Governor may suspend or cancel the certificate (whether of competency or service) granted under this Ordinance to any master or mate in the following cases; (that is to say,)

Governor may cancel or suspend certificates in certain cases.

1. If upon any investigation made in pursuance of the last preceding section it is reported that such master or mate is incompetent, or guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default:
2. If he is superseded by the order of any admiralty court, or of any duly constituted naval court:
3. If he is shown to have been convicted of any offence.

And every master or mate whose certificate is cancelled or suspended shall deliver it to the shipping officer, or to such other

person as the Governor shall direct, and in default shall for each offence incur a penalty not exceeding fifty pounds; and the Governor may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Offences of seamen and apprentices, and their punishments.

73. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea service, commits any of the following offences, he shall be liable to be punished as follows; (that is to say,)

Desertion.

1. For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; and also, if such desertion takes place at any port or place not within the said Island, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place within the said Island, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place, at a higher rate of wages than the rate stipulated to be paid to him.

Neglecting or refusing to join or to proceed to sea, absence within twenty-four hours before sailing, and absence without leave.

2. For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion, or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence, either for a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Quitting without leave before ship is secured.

3. For quitting the ship without leave after her arrival at her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Act of disobedience.

4. For wilful disobedience to any lawful command, he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay.

Continued disobedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours' con-

tinuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and to such forfeiture of wages as the court may direct. Assault on officers.

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and to such forfeiture of wages as the court may direct. Combining to disobey.

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour. Wilful damage and embezzlement.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy. Act of smuggling causing loss to owner.

74. Upon the commission of any of the offences enumerated in the last preceding section an entry thereof shall be made in the official log book, and shall be signed by the master, and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries herein-before required shall, if practicable, be produced or proved, and in default of such production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offence. Entry of offences to be made in official log, and to be read over or a copy given to the offender; and his reply, if any, to be also entered.

75. Every seafaring person whom the master of any ship is under the authority of this Ordinance or any law compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall so long as he remains in such ship be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for

breach of discipline.

which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

76. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from, or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of police officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and may thereupon in any case, and shall, in case he so requires, and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law, and may for the purpose of conveying him before such court detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made shall incur a penalty not exceeding 20*l.*; and such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

77. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

78. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination

of the period for which he was sentenced to impri onment has not arrived.

79. In all cases of desertion from any ship registered at a port or place within the said Island while such ship is at any place out of the said Island, the master shall produce the entry of such desertion in the official log book to the person or persons required by this Ordinance, or by the British or Indian Merchant Shipping Acts to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion; the master shall forthwith transmit such copies to the shipping master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

80. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place within the said Island, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book, and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions herein-before contained be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

Facilities for proving desertion so far as concerns forfeiture of wages.

81. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has, in the course of the voyage, been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Costs of procuring imprisonment may, to the extent of three pounds, be deducted from wages.

82. Whenever any seaman contracts for wages by the voyage, or by the run, or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Ordinance shall be taken to be an amount bearing the same proportion to the whole wages or share as the period herein-before mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

83. All clothes, effects, wages, and emoluments which under the provisions herein-before contained are forfeited for desertion

Application of forfeitures.

shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid into the Treasury of this Island, and carried to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wages.

84. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Penalty for false statement as to last ship or name.

85. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding five pounds, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Ordinance.

Fines to be deducted from wages, and paid to shipping officer.

86. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Ordinance; and such fine shall be deducted and paid over as follows; (that is to say,) if the offender is discharged at any port or place within the said Island, the offence, and such entries in respect thereof as aforesaid, are proved, in the case of a foreign-going ship to the satisfaction of the shipping officer before whom the offender is discharged, and in the case of a coastwise ship to the satisfaction of the shipping officer at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping officer; and if before the final discharge of the crew within the said Island any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in the said Island, and the offence and such entries as aforesaid are proved to the satisfac-

tion of the officer in command of the ship into which he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any) and signed by such officer or other person; and on the return of the ship within the said Island the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping officer before whom the crew is discharged, and in the case of coastwise ships to the shipping officer at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Ordinance.

Penalty for enticing to desert and harbouring deserters.

87. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding five pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding five pounds.

Penalty for obtaining passage surreptitiously.

88. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding five pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding four weeks.

On change of masters documents hereby required to be handed over to successor.

89. If during the progress of a voyage the master of any ship registered at any port or place within the said Island is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

Official Logs.

Official logs to be kept in forms sanctioned by the Governor.

90. The shipping officer may require an official log book of every ship registered at any port of this Island, not being a coastwise ship, to be kept in a form sanctioned by the Governor; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united

therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

91. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

92. Every master of a ship for which an official log book is hereby required shall make or cause to be made therein entries of the following matters; (that is to say,)

Convictions.

1. Every legal conviction of any member of his crew, and the punishment inflicted.

Offences.

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as herein-before required.

Punishments.

3. Every offence for which punishment is inflicted on board, and the punishment inflicted.

Conduct, &c. of crew.

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars.

Illness and injuries.

5. Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted.

Deaths.

6. Every case of death happening on board, and of the cause thereof.

Births.

7. Every birth happening on board, with the sex of the infant, and the names of the parents.

Marriages.

8. Every marriage taking place on board, with the names and ages of the parties.

Quitting ships.

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof.

Wages of men entering navy.

10. The amount of wages due to any seaman who enters Her Majesty's service during the voyage.

Wages of deceased seamen.

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom.

Sale of deceased men's effects.

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it.

Collisions.

13. Every collision with any other ship, and the circumstances under which the same occurred.

Entries how to be signed.

93. The entries hereby required to be made in official log books shall be signed as follows; (that is to say,) every such entry shall be signed by the master and by the mate or some other of

the crew, and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman or by the officer authorized to receive the seaman into such service.

Penalties in respect of official logs.

94. The following offences in respect of official log books shall be punishable as herein-after mentioned; (that is to say,)

1. If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty a penalty not exceeding five pounds:
2. Every person who makes or procures to be made or assists in making any entry in an official log book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge within the said Island, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding five pounds:
3. Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be liable to imprisonment, with or without hard labour, for a term not exceeding one year.

Entries in official logs to be received in evidence.

95. All entries made in any official log book as herein-before directed shall be *primâ facie* evidence in any proceeding in any court of justice, subject to all just exceptions.

Depositions to be received in evidence when witness cannot be produced.

96. Whenever, in the course of any legal proceedings instituted at any port or place within the said Island before any judge, commissioner, or magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, then, upon due proof that such witness cannot be found at or that he has departed from such port or place, any deposition that such witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions (including the said Island), or any British consular officer elsewhere, shall, if authenticated by the signature of the justice, magistrate, or consular officer, be admissible in evidence: Provided that if the proceeding is criminal such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the justice, magistrate, or consular

officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Ordinance not to extend to ships of war.

97. Nothing in this Ordinance shall extend to any ship belonging to or in the service of Her Majesty, or to any ship of war belonging to any foreign prince or state.

98. Has had its effect.

TABLE A.

Fees to be charged for Matters transacted at Shipping Offices.

1. Engagement or discharge of crews :

	£	s.	d.
In ships under 100 tons - - - -	0	6	0
From 100 to 200 „ - - - -	0	14	0
200 to 300 „ - - - -	1	0	0
300 to 400 „ - - - -	1	5	0
400 to 500 „ - - - -	1	10	0
500 to 600 „ - - - -	1	15	0
600 to 700 „ - - -	2	0	0
700 to 800 „ - - - -	2	5	0
800 to 900 „ - - - -	2	10	0
900 to 1,000 „ - - - -	2	15	0
Above 1,000 „ - - - -	3	0	0

and so on for ships of larger tonnage, adding for every 100 tons above 1,000, 5*s.*

2. Engagement or discharge of seamen separately, 2*s.* for each seaman.

3. Endorsement of change of master on registry, 4*s.*

TABLE B.

Sums to be deducted from Wages by way of partial Repayment of Fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge :

	£	s.	d.
From wages of any mate, purser, engineer, surgeon, carpenter, or steward - - - -	0	1	6
From wages of all others, except apprentices -	0	1	0
2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge - - - - - -	0	1	0

TABLE C.

Number and Dimensions of Boats with which sea-going Ships are to be provided.

Registered Tonnage.	Dimensions of Boats to be carried.				
	Boats.				
Sailing Ships.	Number.	Length.	Breadth.	Depth.	Total Number of Boats to be carried.
		ft.	ft. in.	ft. in.	
Under 100 - - -	1	14	5 0	2 2	1
100 to 200 - - -	2	14	5 0	2 2	2
200 to 400 - - -	1	14	5 0	2 2	2
	1	16	5 6	2 3	
400 to 600 - - -	1	16	5 6	2 3	3
	1	22	5 6	2 5	
	1	22	4 4	3 3	
600 to 800 - - -	1	16	5 4	2 3	4
	2	24	5 6	2 6	
	1	25	7 0	3 6	
800 and upwards - -	1	18	5 6	2 3	4
	2	24	5 6	2 6	
	1	26	8 0	3 8	

7th October 1863.

138.

No. 8 OF 1863.

An Ordinance to provide for the Registration of Titles to Land, and of all Deeds affecting Land in this Colony.

WHEREAS the want of a proper system of registration of titles to land, and of deeds affecting lands, is found to be productive of much injury to the owners of such lands, and to others interested therein: It is enacted as follows: Preamble.

1. This Ordinance may be cited for all purposes as "The Land Registration Ordinance, 1863." Short title.

I. *Registration Department and Officers.*

2. From the time when this Ordinance shall come into operation there shall be established in Colombo a land register office for Ceylon, and branch offices at such other places as to the Governor shall appear necessary. Registration office.

Registrar and deputy registrars.

3. The Governor shall appoint a fit and proper person to execute the duties and powers herein-after mentioned, who shall be called "the Registrar General of Lands;" and also one or more persons for each province or district of the Island, as he may deem necessary, to assist the said registrar in the execution of the said duties and powers, and who shall be called "registrars of lands;" and all duties and powers herein-after required to be exercised by any registrar shall and may be exercised by the Registrar General.

Oath of office.

4. Every such Registrar General and registrar shall, before proceeding to execute any of the duties and powers aforesaid, take and subscribe before some justice of the peace an oath in the form A. in the schedule hereunto annexed, which oath so taken and subscribed shall be enrolled in the Supreme Court.

Clerks and other officers.

5. The Governor may from time to time appoint such clerks and other ministerial officers as to him may appear necessary, to assist the Registrar General and registrars in the execution of the duties and powers aforesaid.

Salaries.

6. The Governor may from time to time, with the advice and consent of the Executive Council, direct to be paid out of the Colonial Treasury to such Registrar General, registrars, clerks, and officers as aforesaid, such salaries or remuneration as to him shall appear reasonable.

II. *Rules.*

Rules of office.

7. The Governor may from time to time, with the advice and consent of the Executive Council, frame and establish rules and regulations regarding the manner in which the plans and books rendered necessary by this Ordinance are to be made and kept, and the manner in which all deeds and other papers filed or preserved in the said office are to be arranged; also the manner in which the accounts of the said office are to be kept, and generally to provide in every respect for the due working of this Ordinance.

Rules of procedure.

8. The judges of the Supreme Court may from time to time, and subject to the provisions of the Ordinance No. 8 of 1846, make rules and orders for regulating the practice of the district courts and courts of requests, and the forms of proceeding therein, in all matters relating to registration not otherwise provided for in this Ordinance: Provided that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance.

III. *Preliminary Survey.*

Surveyor General shall prepare surveys and plans.

9. The Surveyor General shall, with the sanction of the Governor, from time to time survey, or cause to be surveyed, in such convenient divisions as shall serve the purposes of this Ordinance, the several villages and districts of the Island; and shall prepare or cause to be prepared plans thereof, marking thereon the various allotments belonging to or claimed by private

individuals, and those belonging to or claimed by the Crown, so far as the same can be ascertained ; and for the purposes of such survey, or for the amendment of any survey already made, it shall be lawful for the Surveyor General, or any officer authorized by him in writing, to enter upon all lands situate within such villages or districts as aforesaid, and to require all persons having the custody or possession of any deeds or documents relating thereto to produce the same ; and if any such person shall, without reasonable cause, refuse or neglect to produce the same within ten days after the same shall have been demanded, or if any person when required shall, without reasonable cause, refuse or neglect to give full information touching the custody or possession thereof, every such person shall be liable to a fine not exceeding five pounds.

10. The Surveyor General shall be bound to give at least one month's previous notice by such means as will secure the greatest publicity thereto in the division intended to be surveyed of his intention to survey the same, and of the day on which he intends to commence such survey.

One month's previous notice of survey.

11. In case the Surveyor General has already, at the date of the passing of this Ordinance, surveyed any division, and prepared a plan thereof, it shall not be deemed necessary to make a new survey of the same ; but every such plan may be accepted and acted upon (with such amendments, if any, as to the said Surveyor General shall seem necessary) as if the same had been prepared in pursuance of this Ordinance.

Surveys and plans already prepared may be acted upon.

12. As soon as the survey and plan of any division shall have been completed the Surveyor General shall report the same to the Governor, and shall at the same time deliver or transmit the said plan to the registrar.

Plans to be delivered to registrar.

IV. *Investigation and Settlement of Claims.*

13. It shall be lawful for the Governor, with the advice and consent of the Executive Council, on receiving such report as last aforesaid, by a proclamation, to be published in the "Government Gazette," to declare the said division to have come within the operation of this Ordinance ; and the registrar shall thereupon have authority to enter upon all lands situate within such division, and to investigate all claims thereto for the purposes of registration under this Ordinance.

After proclamation in the "Gazette," registrar authorized to commence investigations.

14. The registrar shall, previous to such investigation, prepare notices as near as is material in the form B. in the schedule hereunto annexed, calling upon all persons having or claiming a right, title, or interest in or to any of the lands situate in the said division, or in such portion thereof as shall be specified in the said notice, or their agents or representatives, to appear before him on a day or days to be named in such notice (not being less than sixty days from the date thereof), and to state their claims thereto; and every such notice shall be published in the English, Singhalese, and Tamil languages twice at least in the "Government Gazette," and (if need be) in the local newspapers, and copies thereof shall

Notice to claimants.

Mode of publication.

also be affixed on the walls of the cutcherry and the several courts of the district wherein such division is situated, and in such other localities as may secure the greatest possible publicity thereto; and the said notice shall likewise be advertised by beat of tom-tom once a week at least during the said period of sixty days, throughout the aforesaid division.

Registrar shall proceed to the spot and receive claims.

15. On the day appointed in such notice the registrar shall proceed to the said division, and shall then, or on such other early day as he shall then and there from time to time publicly appoint, inquire for, receive, and record on the spot all claims made by all persons to or in respect of any and every of the lands situate therein.

Claims may be made either in writing or verbally.

16. Every person having or claiming to have any right, title, or interest in or to any such lands, whether in possession or in expectancy, shall, personally or by his agent, deliver to the registrar within such time as he shall then appoint a statement of his claim in writing, signed by such claimant or his agent, and worded as near as may be according to the form C. in the schedule hereunto annexed: Provided that it shall be competent for any such claimant or agent as aforesaid, instead of delivering such statement in writing, to appear in person before the said registrar, within such time as last aforesaid, and to state verbally the particulars of his claim; and the registrar shall record the same in writing in such form as aforesaid, and the same shall be signed by the said claimant or his agent as aforesaid; and all such statements shall be filed and numbered by the registrar in the order in which they shall have been received or recorded as aforesaid.

Settlement of disputes by arbitration.

17. If in the course of the proceedings in the preceding section mentioned two or more persons shall claim a right, title, or interest in or to the same land adversely to each other, the registrar shall propose to them the settlement of their disputes by means of a reference to arbitration; and in case they consent thereto, each party so claiming adversely to the other or others shall name an arbitrator, with power to the arbitrators, before proceeding with their investigation, to name the registrar himself or any other person as an umpire; and the parties shall thereupon sign a submission in the form D. in the schedule hereunto annexed; and the award of such arbitrators or of their said umpire shall, if made and published within fourteen days from the date of the submission, or within such other period as the registrar shall, upon cause shown, by writing appoint, be binding upon the said parties and conclusive as regards the said disputes; and no such award shall be re-opened or set aside except upon proof to the registrar of fraud or corruption, in which case it shall be competent for the parties to enter into a new submission, subject to the same conditions as herein-before provided in respect of the original submission.

Failing an arbitration, registrar shall decide who is to be plaintiff.

18. In case the persons so claiming as last aforesaid shall not consent to an arbitration, or in case no award shall be made and published within the said period, the registrar shall, after a summary inquiry into the disputes aforesaid, rule and direct which of the parties should as plaintiff bring his action against the other or

others of them, and shall forthwith deliver to each of the said parties a certificate of such ruling in the form E. in the schedule hereunto annexed; and the ruling of the registrar on this point shall be final and binding on the parties, but it shall in no way further affect their rights and liabilities in any suit which may thereafter be commenced in pursuance of such ruling.

The registrar and arbitrators may summon and examine witnesses, and call for documents.

19. The registrar, or any arbitrator or umpire appointed under the provisions of this Ordinance, may from time to time, as he shall see occasion, by a writing under his hand (in the form F. in the schedule hereunto annexed), summon any person to appear before him at any time or place in such writing mentioned, to testify touching the rights or possession of the respective parties, and if need be to produce any documents in the possession or control of such person, and may cause the said writing to be served on such person, or to be left at his usual or (failing such) his last place of abode; and every person so summoned who shall (without reasonable or sufficient cause) fail to appear, or shall (without like cause) refuse to be examined on oath or affirmation (which oath or affirmation such registrar, arbitrator, or umpire is hereby authorized to administer), or shall (without like cause) refuse or wilfully neglect to produce any such documents as aforesaid, shall for every such refusal or neglect be liable to such fine (not exceeding five pounds) as the said registrar, arbitrator, or umpire shall think fit, by an order under his hand, to impose; and it shall be lawful for such registrar, arbitrator, or umpire in every such order to direct payment of any such fine to be made into the police court of the district in which the said division is situate; and if payment is not made as therein directed the said police court shall proceed to enforce the same, as well as payment of all charges relating to the recovery thereof, and to deal with the person liable in that behalf in such and the same manner as if the fine had been imposed by the said court.

Penalty on witnesses refusing to attend, &c.

Mode of recovering such penalty.

Mode of taking evidence.

20. All evidence given before the said registrar, arbitrator, or umpire shall be taken down by him in writing, and shall, when complete, be read over and explained to the witness giving the same; and the depositions shall thereupon be signed by him, or in the case of his refusal by the said registrar, arbitrator, or umpire; and if any such witness shall in his examination knowingly and wilfully state any matter or thing which shall be false, he shall be deemed guilty of perjury.

Punishment in case of false evidence.

V. *Publication of Claims.*

Registrar shall prepare list of lands and claims.

21. So soon as the registrar shall have completed his inquiries respecting the lands in any such division as aforesaid, he shall prepare a list of such lands and of all claims made thereto, and also a notice, calling upon all persons who may assert a right adverse to that of any of the claimants therein named, to assert such right by due course of law within six months from the date thereof; and every such list and notice shall be, as near as may be, in the forms G. and H. respectively in the schedule hereunto annexed.

Final notice to all claimants.

22. And the registrar shall cause copies of the said list and notice in the English, Singhalese, and Tamil languages to be published twice at least in the "Government Gazette," and (if need be) in the local newspapers, and to be affixed on the walls of the cutcherry and the several courts of the district in which the said division is situated, and in such other localities as may secure the greatest possible publicity thereto; and shall also cause the said notice to be advertised by beat of tom-tom once a week at least during the said period of six months throughout the said division.

Claims to be open to inspection.

23. All the said claims (whether delivered by the claimants to the registrar, or by him reduced to writing) shall, at all reasonable times within the said period of six months, upon a written application in that behalf, be open to the inspection and perusal of all persons claiming to be interested in the said lands, and of their respective proctors or agents (duly authorized thereto in writing), with liberty to them to demand and receive copies thereof or extracts therefrom.

24. Repealed. (*See* Ordinance No. 3 of 1865, § 8.)

VI. *Registration of existing Titles, Interest, and Incumbrances.*

Mode of registering titles, &c.

25. Immediately after the lapse of the said period of six months the registrar shall proceed to register all the lands situate within the said division, by entering in a book (bearing the name of such division, or of the village or district wherein it is situate) a copy of the plan thereof, and also a copy of each allotment thereof on a separate page, together with the name of the owner, and of all other persons whose rights and interests, whether by lease, mortgage, plantation, servitude, or otherwise, shall have been recognized or upheld up to date, together with such other particulars and references as may be necessary to secure the proper identification of every such allotment with the land to which it refers, with the claims made thereto, and with the certificate to be issued in respect thereof; and every such book and plan shall be kept in duplicate, and one copy thereof shall be preserved in the Land Register Office in Colombo, and the other in the branch office of the province or district in which such village, district, or division is situate.

Books and plans open to inspection.

26. And every such book and plan shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all persons claiming to be interested in any of the lands therein registered, and to their proctors or agents duly authorized thereto in writing, with liberty to demand and receive copies thereof or extracts therefrom.

Certificates of title, interest, or incumbrance.

27. At the end of the said period of six months, or of such extended period as in the 24th section mentioned, the registrar shall, upon delivery to him of the proper stamp in that behalf, proceed to issue certificates of title or of interest or incumbrance, in terms of their respective claims, to each of the persons whose right, title, or interest in or to any of the said lands has not been disputed, or having been disputed shall have been upheld by an award, as provided in the 17th section; and also to each of the

persons against whom no action shall have been brought, and no notice thereof given to the registrar, as in the 24th section provided.

28. In case any action shall have been commenced, and notice thereof given, as in the said 24th section provided, the registrar shall suspend the issuing of the certificate in respect of the right, title, or interest thereby put in issue, until the final adjudication of a competent court shall have been obtained thereon ; and thereafter he shall, on production of a certified copy of the final decree, issue the certificate in favour of the person or persons declared by such decree to have a right, title, or interest in the land therein referred to.

Suspension of certificate in case of an action.

29. Provided, however, that the registrar shall in no case issue any certificate, either of title, interest, or incumbrance, until he shall have previously registered the land therein referred to in manner provided in the 25th section, as well as the right, title, or interest in respect of which such certificate is about to be issued.

Proviso: certificate not to be issued until after registration.

30. Every certificate of title shall be, as near as is material, in the form I. in the schedule hereunto annexed; and shall be signed by the Registrar General, and countersigned by the registrar of the province or district wherein the land therein referred to is situate, and shall contain a correct plan and description of the land therein referred to, with the figures and references necessary to identify it on the plan of the village or division in which it is situate, and a correct statement of the title of the person to whom it is issued.

Form of certificate of title

31. Every certificate of incumbrance or interest shall be, as near as is material, in the form K. in the schedule hereunto annexed, and shall be signed and countersigned as last aforesaid, and shall contain a correct description of the land to which it relates, with such figures and references as aforesaid, and likewise a correct statement of the right or interest of the party to whom it is issued, and of all parties having a prior, preferent, or concurrent right or interest therein, whether by way of lease, mortgage, or otherwise, together with the dates or particulars thereof, and (if created by deed) the name and residence of the notary, judge, commissioner, or justice who may have attested the same.

Form of certificate of incumbrance or interest.

32, 33. Repealed.

VII. *Interim Registration.*

34. And whereas the preparation of surveys and the investigation and registration of titles herein-before provided for are likely to be attended with delay, and it is desirable that some provision should be made for the registration in the meantime of deeds affecting land, independently of the foregoing sections of this Ordinance : It is therefore further enacted, that from and after the time when this Ordinance shall come into operation, the secretary of every district court in the Island shall deliver all

Secretaries of courts to transmit duplicates to registrar.

deeds and protocols in his custody to the registrar of the province or district in which such court is situated.

35. Repealed.

Registrar to bind and index all protocols.

36. Every such registrar shall from time to time cause all duplicates so transmitted or delivered to him as aforesaid to be bound in convenient volumes, distinguished by the name of the notary. judge, commissioner, or justice, who has attested the same; and shall keep and preserve the same in his office, and shall also prepare and keep proper indexes thereof for general reference; and all such duplicates and indexes shall, at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all parties claiming to be interested therein, or to their proctors or agents duly authorized thereto in writing, with liberty to demand and receive copies thereof or extracts therefrom.

Inspection thereof.

Registrars to prepare books for registration.

37. Every such registrar shall prepare and keep such books as shall be required by the rules and regulations, for the registration therein of any deed which may be brought to him for registration as herein-after provided, allotting to each book some defined division of the province or district, so that every deed relating to lands situate therein may be registered therein in such manner as to facilitate reference to all existing alienations or incumbrances affecting the same lands; and every such book shall be kept in duplicate, and one copy thereof shall be kept in the Land Register Office in Colombo, and the other in the branch office of the said province or district; and the same shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all parties claiming to be interested therein, or to their proctors or agents duly authorized thereto in writing, with liberty to demand and receive copies thereof or extracts therefrom.

Inspection thereof.

VIII. *Registration of future Alienations and Incumbrances.*

All deeds, &c. affecting land to be registered.

38. From and after the time when this Ordinance shall come into operation, every deed or other instrument of sale, purchase, transfer, assignment, or mortgage of any land or other immoveable property, or of promise, bargain, contract, or agreement for effecting any such object, or for establishing or transferring any security, interest, or incumbrance affecting such land or property (other than a lease at will, or for any period not exceeding one month), or of contract or agreement for the future sale or purchase or transfer of any such land or property; and every deed or act of release, surrender, or annulment of or affecting any such deed or other instrument, and the probate of any will; and every grant of administration affecting any such land or property; and every judgment or order of court affecting any such land or other property shall, if executed, made, granted, or pronounced after the time when this Ordinance shall have come into operation, be registered in the branch office of the district or province in which

such land or property is situate; that is to say, in the books mentioned in the 37th section, until the division shall have come within the operation of the 25th section, and immediately thereafter in the books mentioned in the said 25th section.

Effect of non-registration.

39. Every deed, judgment, order, or other instrument as aforesaid, unless so registered, shall be deemed void as against all parties claiming an adverse interest thereto on valuable consideration, by virtue of any subsequent deed, judgment, order, or other instrument which shall have been duly registered as aforesaid Provided, however, that fraud or collusion in obtaining such last-mentioned deed, judgment, order, or other instrument, or in securing such prior registration, shall defeat the priority of the person claiming thereunder, and that nothing herein contained shall be deemed to give any greater effect or different construction to any deed, judgment, order, or other instrument registered in pursuance hereof, save the priority hereby conferred on it.

Proviso.

Production of the deed, &c, and registration thereof.

40. It shall be the duty of the party gaining an interest or benefit under any such deed, judgment, order, or other instrument as aforesaid, personally or by his agent to produce the same, or a duplicate or authenticated copy thereof, to the registrar of the province or district in which the land or property thereby affected is situate; and such registrar shall forthwith, upon delivery to him of the proper stamp for the certificate herein-after required, register the same on the appointed page of the book assigned to the division, village, or district wherein the land thereby affected is situate; and shall transmit a note of such registration to the Land Register Office in Colombo, to be entered in the appropriate duplicate book kept in that office.

Registrar may call for proof, and give notice to third parties.

41. Provided that every such registrar shall be entitled, if he see fit so to do, to require any person desiring such registration to show by affidavit or otherwise, as he may direct, that such deed, judgment, order, or other instrument was duly made, granted, executed, or pronounced; and where he may have reason to apprehend that a fraud is about to be committed on any party, he shall be entitled, and is hereby required, to give notice to such party of the intended registration, in order to prevent the same being effected to his prejudice.

Certificate of endorsement of registration.

42. The registrar shall, immediately after such registration, deliver to the party effecting the same a certificate thereof signed by him, and shall also (if required) make and sign an endorsement thereof on the document produced to him as aforesaid; and every such certificate and endorsement shall be, as near as is material, in the forms K. and L. respectively in the schedule hereunto annexed.

Caveat in certain cases.

43. It shall be competent to any party to lodge with the registrar a caveat to prevent the registration of any transfer or security affecting any land or other property as aforesaid, and such caveat shall entitle such party to notice of any application for registration as regards such land or property, unless where the caveat limits the time of its operation, in which case it shall cease to have any force or value upon the lapse of such time; but no

such caveat shall be sufficient to prevent the registration applied for, unless it be followed up within thirty days after service of the notice of application by an action before some competent court, and notice thereof to the registrar, in which case the registrar shall suspend the registration until the final adjudication of such action.

IX. *Miscellaneous.*

On death of owner, the executor or administrator shall be registered.

44. On the death of any registered owner or other interested party, all lands belonging to him, or in which he may have an interest, shall remain in his name until probate or administration of his estate shall have been granted, whereupon, and upon a written application in that behalf, the name of the executor or administrator shall be registered in the books, until a partition, transfer, or alienation of the lands shall have been effected, whereupon, and upon like application, such partition, transfer, or alienation shall be registered as herein-before provided.

On partition a fresh registration shall be effected.

45. On the partition of any land registered as one allotment, the registrar shall, upon a written application in that behalf, register the new allotments on separate and fresh pages of the book, with such references as may be necessary to identify them with the original registration.

List of executors, &c.

46. The secretary of every district court throughout the Island shall, at the end of every month, transmit to the registrar of the province or district in which such court is situate a list of all persons appointed executors, administrators, guardians, or curators, showing the numbers of the cases in which such appointments have been made; and such registrar shall also from time to time prepare alphabetical lists of the persons so appointed, and keep and preserve the same in his office, and also transmit a copy thereof to the Land Register Office in Colombo, and to every other branch office throughout the Island; and all such lists shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all persons.

List of Government debtors, &c.

47. The Government agent of every province of the Island shall, at the end of every month, transmit to the registrar or registrars in his province a list of all persons who shall have become debtors to the Crown, or sureties to such debtors; and every such registrar shall from time to time prepare alphabetical lists of such debtors and sureties, and keep and preserve the same in his office, and also transmit a copy thereof to the Land Register Office in Colombo, and to every other branch office throughout the Island; and all such lists shall, upon a written application in that behalf, be similarly open to inspection and perusal of all persons.

Stamp duties.

48. The several instruments mentioned in the schedule M. hereunto annexed shall bear stamps of the amount therein respectively set forth, and shall, in respect of such stamp duty, be subject to the provisions applicable thereto of the stamp laws of this Island; but all submissions, awards, and summonses executed,

made, or issued under the provisions of this Ordinance shall be exempt from stamp duty.

49. Any person who shall wilfully resist, obstruct, or hinder, or who shall incite or assist others to resist, obstruct, or hinder any person acting in pursuance of the authority given by this Ordinance, shall be liable to a fine not exceeding five pounds.

Penalty on persons obstructing.

50. Any person who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence, or give any vexatious annoyance, shall be liable to a fine not exceeding five pounds.

Penalty on abuse of authority.

51. In case any registrar shall refuse or wilfully neglect or delay to perform any duty imposed upon him by this Ordinance, it shall be competent for the district court of the district wherein the land thereby affected is situate, upon affidavit or other proof thereof, to issue a rule on such registrar, calling on him to show cause why such duty should not be performed; and after cause shown, or upon default thereof, to make such order as the said court may deem right, which order shall have the effect of and be put in execution in the same manner as a judgment pronounced by such court.

On refusal or neglect of registrar, district court may, on a rule nisi, make an order.

52. Every magistrate and judge before whom any complaints or causes arising in respect of this Ordinance shall be tried, shall at the end of every month transmit to the Registrar General a list or account of all fines imposed and recovered by such magistrate or judge.

List of fines imposed under this Ordinance

53. Has had its effect.

SCHEDULE.

A. § 4.

Oath of Office.

I, *A.B.*, do sincerely promise and swear that I will faithfully and diligently execute, to the utmost of my abilities, the duties of Registrar General of Lands (*or* Registrar of Lands for the Western Province, *or* for the district of Colombo, *as the case may be*).

So help me God,

A.B.

Sworn on the day of A.D. 1864,

Before me,

C.D.,

Justice of the Peace.

B. § 14.

NOTICE OF INVESTIGATION.

Land Registration.

——————Pattoe } Welligampittia { ——————District.
——————Corle } { ——————Province.

Notice is hereby given that I, *A.B.*, Registrar General of Lands (*or* Registrar for the Western Province, *or as the case may be*,) will on the day of next proceed to investigate all claims to the lands situate in the village of *Welligampittia* (from lot 1 to lot 50, *as the case may be*), as set forth in the Registration Plan No. 105.

And I do hereby require all persons owning or interested in lands within the said village, or their agents or representatives, to appear before me at the *Rest-house at Welligampittia*, at the time of such investigation, and to state their claims to the said several lands.

October 15, 1864. *A.B., Registrar General,* (*or as the case may be*).

C. § 16.

STATEMENT OF CLAIMS.

Registration Plan No. 105.

——————Pattoe } Welligampittia { ——————District.
——————Corle } { ——————Province.

No of Allotment	Name of Land	Extent	Claimants	Extent of Claim	Nature of Title	Remarks
		A R P				
18	Delgahawatte	1 1 52	Meddumegey Juanis Perera	The whole	By inheritance as only child of *M Wellon Perera* and his wife *Juana Silva*	
			Meddumegey Isaac Perera	An undivided half	By inheritance from *M Francisco Perera*, the deceased brother of *M Wellon Perera* (died 1846).	Disputed Wellon had no brother Prescription
			Adicarigey Deonis Silva	Mortgage, 15*l*	Bond dated 15th October 1861, *J Drieberg*, Notary	Admitted by 1st claimant

October 15th, 1864.
A.B., Registrar.

Juanis Perera,
Mark of (+) *M. Isaac Perera,*
Deonis.

D. § 17.

REFERENCE TO ARBITRATION.

Registration Plan No. 105.

Delgahawatte.
Allotment No. 18.

——————Pattoe } Welligampittia { ——————District.
——————Corle } { ——————Province.

We, the undersigned claimants of the above-mentioned land, do hereby agree, under the terms of the 17th section of the Land Registration Ordinance, 1863, to refer all disputes touching our several claims to the above-mentioned land, as set forth in the statement of claims No. 12, to the arbitration and award of *Adamberegey Theodoris Alvis* and *Dissanayekegey Jeronis Pieris,* with power to them to nominate an umpire.

October 15th, 1863.

Witness,
A.B.
Clerk.

M. Juanis Perera,
Mark of (×) *M. Isaac Perera,*
Deonis.

We the above-named arbitrators do hereby nominate the Registrar (*or Semboegey Siman Perera*), as umpire.

A. Theodoris Alvis,
D. Jeronis Pieris.

Witness,
A.B.
Clerk.

E. § 18.

RULING ON A DISPUTED CLAIM.

Registration Plan No. 105.

Delgahawatte.
Allotment No. 18.

——————Pattoe } Welligampittia { ——————District.
——————Corle } { ——————Province.

Whereas certain disputes have arisen touching the above-mentioned land, as more fully set forth in the Statement of Claims No. 12, I, the undersigned registrar, do hereby rule, that of the several claimants therein named, *Meddumegey Isaac Perera* shall, as plaintiff, bring his action against the others.

Such action must be commenced within the period limited by section 24 of the Land Registration Ordinance, 1863.

Signed and delivered this 15th day of October 1864.

A.B. Registrar.

F. § 19.

SUMMONS.

Land Registration.

Welligampittia.

To *Kalohat Harmanis* of *Pallanchena.*

You are requested to attend before me at 8 o'clock, on the 21st day of *November* 1864, at the *Rest-house at Welligampittia*, to testify touching the persons entitled to or interested in the land *Delgahawatte* in *Welligampittia*, and to produce all documents relating thereto, which may be in your possession or control.

A.B., Registrar
(or as the case may be).

October 13, 1864.

G. § 21.

LIST OF LANDS AND CLAIMS.

Registration Plan No. 105.

——————Pattoe } Welligampittia { ——————District.
——————Corle } ——————Province.

Registration Number.	Names of Lands.	Extent. A. R. P.	Claimants.	Nature of Title.	Remarks.
1	Ambegahawatto --	2 1 15	Adicaregey Isaac Silva.	Owner by inheritance and prescription.	Undisputed.
2	Dangahawatte -	0 2 15	Hettigey Deonis Silva.	Owner by purchase from *Deweegey Naide Hamy.*	Leased for three years to *Adicarigey Isaac Perera*, commencing 16th January 1863.
3	Siyembelegahalande	7 0 27	Crown land -	—	Cultivated, without permission, by *Wellegey Salman Appoo.*
4	Kosgahacumbure -	3 3 17	Wellegey Siman " Juanis " Sarah	Owners by inheritance	*Wellegey Jeronis* claims ¼ as a co-heir, but claim disputed.

A.B., Registrar.

H. § 21.

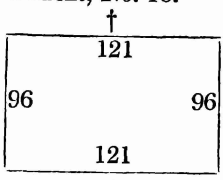
FINAL NOTICE TO CLAIMANTS.

All persons having or pretending any claim to any of the lands mentioned in the foregoing (*or* accompanying) list, or denying the right of the claimants therein named, are hereby required to assert their right by due course of law within six months from the date hereof.

A. B.,
Registrar.

Colombo, October 13, 1864.

Book, Vol. V., p. 18.
Reg. Plan, No. 105.
Allotment, No. 18.



An allotment of land, called *Delgahawatte*, situated in the village *Welligampittia*, in the *Alootcoor Corle*.

Bounded N. by No. 106 of
E. by No. 107 of
S. by the river.
W. by the high road.

Extent—2 acres, 1 rood, and 15 perches.

C.D.,
Surveyor.

I. § 30.

CERTIFICATE OF TITLE.

Land Registration Ordinance, 1863.

No. 152.

—— Pattoe } Welligampittia { —— District.
—— Corle } { —— Province.

These are to certify that has this day been registered as the owner of an allotment of land at *Welligampittia* in the district of *Colombo*, as delineated and described in the margin hereof.

Given at Colombo, this day of A.D. 1864.

A.B.,
Registrar General.

C.D.,
Registrar for the Western Province.

Book, Vol. V., p. 18.
Reg. Plan, No. 105.
Allotment, No. 18.

An allotment of land, called *Delgahawatte*, situated in the village *Welligampittia*, in the *Aloot Coor Corle*.

Bounded N. by No. 106 of
E. by No. 107 of
S. by the river.
W. by the high road.

Extent—2 acres, 1 rood, and 15 perches.

C.D.,
Surveyor.

K. § 31.

CERTIFICATE OF INCUMBRANCE.

Land Registration Ordinance, 1863.

—— Pattoe } Welligampittia { —— District.
—— Corle } { —— Province.

These are to certify that has this day been registered as mortgagee of an allotment of land at Welligampittia in the district of Colombo, as described in the margin hereof, by virtue of a mortgage bond for 15*l.* and interest, bearing date the 15th day of July 1863, attested by *F. J. de Saram*, notary. Subject (*as the case may be*) to a certain previous incumbrance as hereunder mentioned.*

Given at Colombo, this day of A.D. 1864.

A.B.,
Registrar General.

C.D.,
Registrar for the Western Province.

* Previous incumbrance:
A mortgage in favour of Wellicallegey Siman of Colombo, for 10*l.*, with right of possession in lieu of interest; dated 15th September 1862. *J. Drieberg, Notary.*

K. § 42.

CERTIFICATE OF REGISTRATION.

Book, Vol. V., p. 18.
Delgahawatte,
Allotment No. 18.

Registration Plan, No. 105.

———Pattoe } Welligampittia { ———District.
———Corle } { ———Province.

Wellicallegey Siman Perera of *Kandane* has this day registered a conveyance in his favour of the allotment above mentioned, (*or* of a portion of the allotment above mentioned, as marked off and lettered A.) dated 15th August 1865.—*J. Drieberg*, notary.

Or, Wellicallegey Siman Perera has this day registered a mortgage bond in his favour for 25*l.*, and interest at 12 per cent., dated 15th August 1865.—*J. Drieberg*, notary.

Or, Wellicallegey Siman Perera has this day registered a lease in his favour, for five years, commencing from the date thereof, viz., 15th August 1865.—*J. Drieberg*, notary.

A.B.
Registrar.

L. § 42.

ENDORSEMENT OF REGISTRATION.

Registered.
Vol. VI., p. 14.
October 17, 1865.

A.B.
Registrar.

M. § 48.

SCHEDULE OF STAMPS.

See Schedule annexed to the Ordinance No. 3 of 1865.

139.

No. 9 OF 1863.

An Ordinance to extend and make compulsory the practice of Vaccination.

WHEREAS it is expedient that the practice of vaccination should be extended and made compulsory: It is enacted as follows: Preamble.

1. This Ordinance may be cited for all purposes as "The Vaccination Ordinance, 1863." Title.

2. Has had its effect.

3. For the purposes of this Ordinance, the word "adult" shall be deemed to mean every person apparently of the age of twelve years and more; the word "child," every person apparently more than six months and less than twelve years old; and the word "guardian," the person who, in the absence of the father and mother, shall have or shall at any time have assumed the care, nurture, or custody of any person apparently more than six months and less than twelve years old. Interpretation clause.

4. Whenever the principal civil medical officer shall signify to the Government Agent of any province that he is ready to undertake the vaccination of any district within such province, it shall be the duty of the Government Agent, in conjunction with the principal civil medical officer and the superintendent of vaccination of that province, forthwith to divide such district into convenient divisions for the purpose of affording increased facilities for vaccination, and to appoint a convenient place or places in each such division for the performance of such vaccination, and to take the most effectual means for giving from time to time, to all persons resident within such division, due notice of the days and hours at which an officer will attend at such place or places, to vaccinate all persons not already successfully vaccinated who may then appear there, and also of the days and hours at which such officer will attend at such place or places to inspect the progress of such vaccination in the persons so vaccinated. Division of districts and appointment of places for the purposes of vaccination.

5. Every adult shall present himself at the place so appointed nearest his residence for the purpose of being vaccinated, unless he shall have been previously vaccinated by some duly qualified person, and the officer shall and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate the said adult. Every adult person to present himself for vaccination.

6. Every parent or guardian shall take or cause to be taken the child under his care to the officer at the place so appointed nearest the residence of the said child, for the purpose of being vaccinated, unless such child shall have been previously vaccinated; and the officer shall and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate the said child. Every guardian to present child under his care for vaccination.

7. On the eighth day following the day on which any adult or child has been vaccinated as aforesaid, such adult shall present Inspection to ascertain result of vaccination.

himself, and the parent or guardian of the child shall again take or cause to be taken the said child, to the officer by whom the operation was performed, in order that such officer may ascertain by inspection the result of such operation.

Certificate of successful vaccination

8. On and immediately after the successful vaccination of any adult or child, the officer who shall have performed the operation shall deliver to the adult vaccinated, or the parent or guardian of the child vaccinated, a certificate under his hand according to the form A. in the Schedule to this Ordinance annexed, that the said adult or child has been successfully vaccinated, and shall also transmit a duplicate of the said certificate to the superintendent of vaccination having charge of the district in which the operation was performed; and such certificate shall, without further proof, be admissible as evidence of the successful vaccination of such adult or child in any proceeding which may be instituted for non-compliance with the provisions of the Ordinance.

Course to be pursued where adult or child is in an unfit state to be vaccinated.

9. If the officer shall be of opinion that the adult or child is not in a fit and proper state to be successfully vaccinated, he shall immediately deliver to such adult, or to the parent or guardian of such child, a certificate under his hand according to the form B. in the Schedule, that such adult or child is in an unfit state for successful vaccination, and the production of such certificate shall be a sufficient defence in any proceeding which may be instituted for non-compliance with the provisions of this Ordinance.

Certificate to last for two months, and to be renewed if need be.

10. The certificate required by the preceding section shall remain in force for two months, but the adult or the parent or guardian of the child shall be entitled to apply for a renewal thereof within each succeeding period of two months, which the officer appointed as aforesaid is hereby directed to grant, so long as he shall be of opinion that the adult or child is unfit for successful vaccination and is unvaccinated. If at any time, when the adult or child presents himself or is brought before him, the officer shall deem such adult or child to be in a fit and proper state for successful vaccination, he shall forthwith vaccinate the adult or child accordingly, and shall deliver to the adult or the parent or guardian of the child a certificate according to the form A. in the said Schedule.

Principal civil medical officer to keep register of persons vaccinated.

11. The superintendent of vaccination of every province in which the operation has been performed shall forward copies of the duplicate certificates sent to him under the eighth section to the principal civil medical officer, at such times and in such forms as such last-mentioned officer shall prescribe; and it shall be the duty of the principal civil medical officer to keep a register of the persons of whose successful vaccination a certificate shall have been transmitted to him as above provided, and at all reasonable times to allow search to be made of any such register book in his keeping, and to give copy, certified under his hand, of any entry or entries in the same, on the payment of the fee of sixpence for every search or certificate.

Penalty for breach of provisions of this Ordinance.

12. Every adult who shall not cause himself to be vaccinated, and every parent or guardian who shall not cause the child under his care to be vaccinated (such adult or child not being certified

to be in an unfit state for successful vaccination), or who shall not on the eighth day after the vaccination has been performed (in the case of the adult) present himself, or (in the case of the parent or guardian) take or cause to be taken the child for inspection, according to the provisions in this Ordinance respectively contained, shall be guilty of an offence, and be liable to a fine not exceeding one pound.

Principal civil medical officer to provide books and forms and frame regulations.

13. The principal civil medical officer shall and he is hereby empowered and directed to provide such books and forms, and, with the sanction of the Governor, to frame such regulations as he may deem requisite for carrying into full effect the provisions of this Ordinance.

Headman to give lists of persons not vaccinated

14. It shall be the duty of the headman of every district so to be divided as aforesaid for the purposes of vaccination to provide the officers attending to vaccinate within such districts, whenever called upon so to do, with lists of adults or children to be vaccinated therein; and every headman neglecting or refusing so to do shall be liable to a fine not exceeding two pounds.

Police officers, headmen, &c. to assist in enforcing Ordinance.

15. It shall be the duty of all officers of the police force, and of all headmen, police, and peace officers generally, to aid and assist in the carrying out of this Ordinance, and in the prevention of offences against the same within their respective jurisdictions; and every officer or headman who shall fail to do so, or who, being cognizant of any such offence, shall fail to give information thereof, shall be guilty of an offence, and be liable on conviction to a fine not exceeding one pound.

SCHEDULE.

A.

CERTIFICATE OF SUCCESSFUL VACCINATION.

Name
Age
Sex
Residence
Date of certificate

Signature of Vaccinator.

B.

CERTIFICATE OF UNFITNESS FOR VACCINATION.

Name
Age
Sex
Residence
Date of certificate

Signature of Vaccinator.

N.B.—This certificate will remain in force for two months only from the above date.

21st October 1863.

140.

No. 10 OF 1863.

An Ordinance to provide for the Partition or Sale of Lands held in common.

Preamble.

WHEREAS it is expedient to provide for the partition or sale of lands held in common : It is enacted as follows :

Interpretation clause.

1. For the purposes of this Ordinance, the word "will" shall be held to include a codicil and any other testamentary disposition, and the word "representative" to mean the party legally entitled to appear and act for and on behalf of another as his guardian, tutor, curator, or attorney, as the case may be.

Any one of two or more owners may compel partition or sale

2. When any landed property shall belong in common to two or more owners, it is and shall be competent to one or more of such owners to compel a partition of the said property, or, should such partition be impossible or inexpedient on account of the number or poverty of the owners, the nature, extent, or value of such property, or from other causes, to apply for a sale thereof, and in either case to file in any court of competent jurisdiction a libel, particularly describing the property and stating the extent of his or their share and interest therein, the names and residences of all the co-owners and mortgagees, and the extent of their respective shares or interests, and also the improvements, if any, which have been made on the property, and by which of the owners, so far as the said matters or things, or any of them, shall be known to him or them, and praying for a partition of the common estate amongst the several owners, or a sale thereof, as the case may be.

Summons

Service of summons.

3. On such application being filed, the court shall issue its summons directed to the parties named by the plaintiff, calling upon them to appear and show cause why a partition or sale of the common property should not be decreed as prayed; and such summons shall be served upon the defendants or such of them as can be found, or if they cannot be found upon the person or persons in the actual possession of such property ; or, if there be no person in possession, in such manner as the court shall direct.

Proceeding on default of appearing.

4. If the defendant served as aforesaid shall make default in appearance as directed by the summons, the court shall fix a day to hear evidence in support of the application of the plaintiffs, and on that day, or any other day to which the court may adjourn the hearing, shall hear evidence in support of the title of the plaintiffs and the extent of their shares or interests, as also the title of the defendants and the extent of their respective shares or interests in so far as may be practicable by any *ex parte* proceeding, and shall, if the plaintiff's title be proved, give judgment by default, decreeing partition or sale as to the court shall seem fit.

On appearance.

If the defendants or any of them shall appear and dispute the

title of the plaintiffs, or shall claim larger shares or interests than the plaintiffs have stated to belong to them, or shall dispute any other material allegation in the libel, the court shall in the same cause proceed to examine the titles of all the parties interested therein, and the extent of their several shares or interests, and to try and determine any other material question in dispute between the parties, and to decree a partition or sale according to the application of the parties, or as to the court shall seem fit: Provided, however, that it shall be competent to the court to decree the sale of the common property, though such sale be not prayed for by the parties in the original libel, if in any suit for a partition it shall appear to such court that on account of the number or poverty of the owners, the nature, extent, or value of the land, or other causes, a partition would be impossible or inexpedient.

Proviso as to sale.

5. When a decree of partition has been given, it shall be lawful for the court, on the application of any party to the suit, and on his depositing, if required so to do, such sum as the court shall consider sufficient to defray the expenses of such partition, to issue a commission addressed to such person or persons as shall be agreed upon by all the parties to such suit and as shall be willing to execute the same; or if the parties cannot agree upon any such person, then to some fit person to be named by the court who shall be willing to execute the same, authorizing and requiring him or them to make partition of the land, assigning to each owner his proper share, and otherwise conforming to such special directions as to the partition which the court may give; and the person or persons to whom such commission shall be addressed shall, with all practicable speed, proceed in the presence of all parties concerned (if they will appear) to make partition thereof according to the ascertained proportions of the several owners, and with reference to the value of any improvements made thereon, and the party by whom they may have been made, and in conformity with any special directions as to the partition contained in such decree, and shall make due return thereof, accompanying such return with a schedule, and, if need be, a survey, showing the name, situation, extent, and estimated value of the land, the names of the owners, the nature and extent of their respective shares and interests, and generally the mode in which the said person or persons propose that such partition shall be made: Provided that the commissioners shall, thirty days at least before making such partition, affix on some conspicuous part of the land a written notice of the day on which they propose to make the same, and give further notice thereof by beat of tom-tom in the village or place where such land is situated, and in such other manner as shall appear best calculated for giving the greatest publicity thereto.

Commission for partition.

Return to commission.

Provision as to notice.

6. On the receipt of the return of such commission, the court shall fix a day, of which notice shall be issued to all the parties, and which said notice shall be served in the same way as the original summons, for considering the return; and on that day or such other day as the court shall then appoint, the court after summarily hearing the parties, and, if need be, making such

Proceeding on receipt of return.

further reference as the court shall deem necessary, shall either confirm or modify the partition proposed by the commissioners, and enter final judgment accordingly in the cause.

Partition of share only of applicant

7. If it should be made to appear to the satisfaction of the court, in the case of an application for partition or sale, that a partition of the share of the applicant can be made without interfering with the shares of the other owners of the property, and that such other owners are willing to possess their shares in common, it shall then be lawful for the court to abstain from ordering a partition of the entire land, further than shall be necessary to ascertain and define the share in severalty of the particular applicant.

Commission for sale.

8. When a decree for the sale of the common property has been given, it shall be lawful for the court, on the application of any party to the suit, and on his depositing, if required so to do, in court such sum as the court shall consider sufficient to defray the expenses of the sale, and of any survey which may be required for the purposes of such sale, to issue a commission (directed as in the case of a partition) for the sale of such property; and such commissioners shall thereupon proceed to make a just valuation of the property, and to give notice of not less than six weeks, in such manner as the court shall direct and as shall appear best calculated for giving the greatest publicity thereto, that on the day mentioned in such notice the whole of such property will be put up to sale, first among the owners thereof, at the price for which the same shall have been valued, and if not purchased by some one of them that it shall be put up and sold to the highest bidder; and on the day named in such notice the commissioners shall proceed to sell the whole of such property, by first putting up the same for sale under such conditions as the court shall direct, and subject to any mortgage or other charges or incumbrances which may be on the same, amongst the said owners, at the upset price for which the property has been valued; and if none of the owners shall then become the purchaser thereof and comply with the conditions under which the said property shall be sold, the commissioners shall forthwith put the same up for sale, subject to any such mortgage, charge, or incumbrance, by public auction to the highest bidder; and such commissioners shall make their return to such commission to the said court, showing therein the name and place of abode of the purchaser and the amount for which the said property was sold, and shall file therewith a survey of such property in any case in which a survey shall have been directed by the court; and the purchaser shall pay into court the amount of the purchase money, agreeably to the conditions of sale, to be paid over to the persons entitled thereto, under the order of the court, in the proportion of their respective shares; and the certificate under the hand of the judge of such court that the said property has been sold under the order of the said court, and setting forth the name of the purchaser thereof, and that the purchase money has been duly paid into court by him, shall be evidence in any court of the purchaser's title, without any deed of transfer from the former owners: Pro-

Return to commission.

Certificate of court to be sufficient title.

vided that in case the premises shall be purchased by one or more of the co-proprietors, the share due to him or them shall be deducted from the amount to be paid into court as aforesaid.

Proviso.

9. The decree for partition or sale given as herein-before provided shall be good and conclusive against all persons whomsoever, whatever right or title they have or claim to have in the said property, although all persons concerned are not named in any of the said proceedings, nor the title of the owners, nor of any of them truly set forth, and shall be good and sufficient evidence of such partition and sale and of the titles of the parties to such shares or interests as have been thereby awarded in severalty: Provided that nothing herein contained shall affect the right of any party prejudiced by such partition or sale to recover damages from the parties by whose act, whether of commission or omission, such damages had accrued.

Decree of court to be conclusive evidence of partition or sale and title.

Proviso as to damages.

10. The court by which any such decree of partition or sale shall be given shall and may award to such commissioners such amount as it shall consider a reasonable remuneration for their labour, and for the expenses incurred by them in the survey of the property (if any such has been made) and in and about the making of such partition or sale, which amount shall be paid to them out of the money deposited in court as aforesaid; and the person or persons making a deposit shall be entitled to recover from each of the co-proprietors, by proceeding in the same cause, a share of the costs of such partition or sale proportionate to the share of such person in the said property.

Remuneration to commissioners and expenses of partition or sale.

11. No dilatory exception shall be admitted in any suit for partition or sale.

No dilatory exception allowed.

12. Nothing in this Ordinance contained shall affect the right of any mortgagee of the land which is the subject of the partition or sale: Provided that if at the time any partition or sale shall be made an undivided share only of the land, and not the whole thereof, shall be subject to mortgage, the right of the mortgagee shall be limited to the share in severalty allotted to his mortgagor by and under the same conditions, covenants, and reservations as shall be stipulated in the mortgage bond, so far as the same shall apply to a share in severalty; and the owner of the share in severalty so subject to mortgage shall, without a new deed of mortgage, warrant and make good to the mortgagee the said several part after such partition as he was bound to do before such partition.

Where property is subject to mortgage.

13. If at the time any partition shall be made under any of the foregoing provisions of this Ordinance the property shall be held under any lease, the tenants thereof, or of any part thereof, before such partition was made, shall be tenants of such part set out severally to the respective owners thereof, by and under the same conditions, rents, covenants, and reservations as they held by and under before such partition; and the owners of the several parts so divided and allotted as aforesaid, shall without any new deed of lease warrant and make good to the said tenant or tenants the said several parts, severally, after such partition, as they were bound to do before such partition.

Where property is subject to lease.

Persons having permanent right of property to growing trees distinct from the soil, or owners of soil apart from the trees thereon, to be deemed to have an undivided interest.

14. For the purposes of this Ordinance, every person having a permanent right of property in any of the trees growing upon any land in this Island, distinct from the ownership of the soil, and every person being the owner of any land in this Island, apart from the ownership of the trees thereon, shall be deemed and taken to have an undivided interest in such land; and the owner of the soil, as well as the person having such right in the trees growing thereon, shall and may compel a partition or sale in the manner provided by this Ordinance: Provided, however, that in all such cases either party shall have the right of demanding a sale instead of a partition of the said property; and the owner of the soil shall also have a right of pre-emption in and to the said property, upon a just appraisement by the commissioner or commissioners of the value of the planter's right and interest in the said property, and of any buildings or improvements made by him thereon.

Proviso where a deed of partnership subsists as respects the property.

15. Nothing in this Ordinance contained shall extend or be construed to extend to give to any co-proprietor of any land in this Island the right to compel a partition or sale thereof, if there shall be any valid or subsisting deed of partnership binding upon any such co-proprietor for the cultivation of such property, or the raising of any crops or produce thereon, for the purpose of selling such crops or produce, or for carrying on any trade, manufacture, or occupation having relation to or connected with the joint possession of such property, any of the terms or conditions of which deed would be broken or avoided by the partition or sale of such property, unless such deed shall expressly reserve to the parties thereto, or to any of them, or to their or any of their heirs, executors, or administrators, the right of compelling a partition or sale of such property; and any partition, sale, or conveyance of such property effected without the consent of the parties to such deed, contrary to the true intent and meaning of this section, shall be void.

Proceeding where undivided shares are seized in execution.

16. When any undivided share or interest in any land shall be seized under any writ of execution or distress warrant, the Fiscal shall only put up for sale the share or interest belonging to the debtor, unless the other co-proprietors shall notify in writing to such Fiscal their wish that the whole of the land should be sold, in which case the Fiscal shall cause a just valuation to be made thereof by two appraisers, one of whom shall be named by the debtor and the other by the said co-proprietors, or in the event of their failing to do so within fifteen days from the date of such notification by the Fiscal, and in case of a difference between such appraisers in such valuation the Fiscal shall appoint a third person as umpire, whose valuation shall be final; and the Fiscal shall insert in the notice of sale that on the day of sale the whole of such property will be put up for sale, first among the co-proprietors thereof, at the price for which the same shall have been valued, and if not purchased by some one or more of them, that it shall then be put up and sold to the highest bidder; and on the day named in such notice the said Fiscal shall proceed to sell the whole of such property, by first putting up the same for sale upon the

usual conditions, and subject to any mortgage or other charges or incumbrances which may be on the same, amongst the said co-proprietors at the upset price for which the said property shall have been valued, and if none of the said co-proprietors shall then become the purchaser thereof, and comply with the conditions under which the said property shall be sold, the Fiscal shall forthwith put the same up for sale, subject to any such mortgage, charge, or other incumbrance thereon, and sell the same by public auction to the highest bidder; and in case the premises shall be purchased by one or more of the co-proprietors the Fiscal shall recover from him or them the amount of the purchase and the expenses attending the appraisement and sale, less the shares of such co-proprietors; but if such premises are purchased by any person not being one of the co-proprietors, the said Fiscal shall bring the whole amount into the court out of which the writ of execution was issued, to be paid over to the parties entitled thereto under an order of the said court, in the proportion of their respective shares; and the sum awarded to the debtor as his share, or such part thereof as shall be sufficient to satisfy the exigency of the said writ, shall be paid over under an order of such court to the creditor, and the surplus, if any, shall be paid to the said debtor: Provided, however, that in case any dispute should arise as to what is the amount due to the debtor, it shall be lawful for the creditor, as soon as the money has been brought into court by the Fiscal, to apply to the court for such portion thereof, not exceeding the amount of his writ, as he shall have reason to believe to belong to his debtor, and the court may make an order for the payment thereof to him on his giving security to the satisfaction of the court for the repayment of any part thereof which may at any time within two years thereafter be found not to have belonged to such debtor.

No owner may alienate or hypothecate his share after commencement of legal proceeding.

17. Whenever any legal proceedings shall have been instituted for obtaining a partition or sale of any property as aforesaid, it shall not be lawful for any of the owners to alienate or hypothecate his undivided share or interest therein, unless and until the court before which the same were instituted shall, by its decree in the matter, have refused to grant the application for such partition or sale, as the case may be; and any such alienation or hypothecation shall be void.

No survivorship as to property held in undivided shares unless expressly stipulated for.

18. All landed property situated in this Colony which shall belong to two or more persons jointly, whether the same shall have come to them by grant, purchase, descent, or otherwise, is and shall be deemed and taken to be held by them in common, and upon the decease of any such persons the said property so jointly possessed shall not remain or belong to the survivor, but all the right, share, and interest of the person so dying in and to the property so jointly possessed as aforesaid shall form part of his estate; and the person or persons to whom the same shall by him be devised or bequeathed, or to whom it shall devolve, shall thereupon become and be co-proprietors with the survivor in the said property, in the proportion and according to the share of such deceased person therein, unless the instrument under which

the said property is jointly held and possessed, or any agreement mutually entered into between them, shall expressly provide that the survivor, upon such decease, shall become entitled to the whole estate.

Appeals.

19. All decisions and orders of any court made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought or prosecuted in such manner and shall be subject to such regulations as now exist or shall hereafter be made by law.

20. Has had its effect.

11th November 1863.

141.

No. 13 of 1863.

An Ordinance to amend in certain respects the Law of Marriages in this Island, and to provide for the due Registration thereof.

Preamble.

Whereas it is expedient to amend the law relating to marriages other than Kandyan marriages, and to provide for the due registration thereof: It is hereby enacted as follows:

1. Repealing clause.

Interpretation.

2. For the purposes of this Ordinance, the expression "Registrar General of Marriages," and "registrar of marriages," shall include any person authorized by the Governor to act as such respectively; the expression "minister" of any church or registered place of worship shall include any person authorized by such minister to act in that capacity being legally competent so to act; the word "marriages" shall mean all marriages save and except those contracted under and by virtue of the Ordinance No. 13 of 1859, entitled "An Ordinance to amend the Laws of Marriage in the Kandyan Provinces," and those contracted between persons professing the Mohammedan faith.

Declaration of validity of past marriages by Christian ministers;

3. All marriages which have been heretofore *bonâ fide* solemnized (and not subsequently declared invalid by the judgment of a competent court) between parties legally competent to marry, by judges or by magistrates, or by ministers of the Christian religion, or persons ordinarily officiating as such, either by license or after the publication of banns, shall be deemed and taken to have been good and valid marriages in law, notwithstanding any non-compliance with forms or other irregularity attending the license, or the publication of banns, or the celebration of such marriage, or the want of authority in the party issuing the license, unless the parties to any such marriage, or either of them, shall in the lifetime of both such parties have contracted a subsequent valid marriage: Provided that no person who shall have heretofore lawfully come into possession of any property, moveable or immoveable, by reason of the invalidity of any marriage so

solemnized as aforesaid, shall be dispossessed thereof, and that the rights of such person, and of all others claiming under him, shall not be in any way affected by reason of such marriage being by this Ordinance made good and valid.

4. All marriages heretofore had in this Island, which were in all other respects good and valid marriages, but which have been rendered invalid by reason of their not being registered in conformity with the Regulation No. 9 of 1822, and which have not been subsequently declared invalid by the judgment of a competent court, shall be deemed and taken to have been good and valid marriages, except where the parties to any such marriage or either of them, not being Mohammedans, shall during the lifetime of both such parties have contracted a subsequent valid marriage: Provided that no person who shall have heretofore lawfully come into possession of any property, moveable or immoveable, by reason of the non-registration of any marriage, shall be dispossessed thereof, and that the rights of such person, and of all others claiming under him, shall not be in any way affected by reason of such marriage being by this Ordinance made good and valid.

and of past marriages rendered invalid by not being registered in conformity with Regulation No. 9 of 1822.

5. It shall be lawful for the Registrar General, on receiving from any proprietor or trustee of any separate building used as a place of public Christian religious worship, an application that such building may be registered for solemnizing marriages therein, together with a declaration signed by at least twenty householders, and countersigned by the said proprietor or trustee, that they frequent, or intend to frequent, such place of public worship, to register such place of worship for the solemnization of marriages in a book to be by him provided for that purpose; and the Registrar General shall thereupon give a certificate of such registry and of the date thereof, under his hand, bearing a stamp of three pounds, to be for that purpose provided by the party making such application, and shall give public notice of such registry by advertisement in the "Government Gazette."

Registrar to register buildings for the solemnization of marriages.

6. If at any time subsequent to the registry of any building for the solemnizing of marriages it shall be made to appear to the satisfaction of the Registrar General that any such building has been disused for the public religious worship of the congregation on whose behalf it was registered as aforesaid, the registrar shall cause the registry thereof to be cancelled; provided that if it shall be proved to the satisfaction of the Registrar General that the same congregation use instead thereof some other such building for the purpose of public religious worship, the Registrar General may substitute and register such new place of worship instead of the disused building; and such cancelling or substitution when made shall be entered in the book provided for the registry of such buildings, and shall be certified and published in manner herein-before provided in the case of the original registry of the disused building, and such substitution shall be made under the hand of the Registrar General, and shall bear a stamp of two pounds, to be for that purpose provided by the party applying for such substitution. After such cancelling shall have been made no

Registry of disused buildings may be cancelled.

marriage shall be solemnized in such disused building, unless the same shall be again registered.

Notice of every intended marriage to be given to the registrar.

7. In every case of marriage intended to be contracted or solemnized, one of the parties shall give notice to a registrar of the district in which he or she shall have dwelt for not less than twenty-one days then next preceding, and such notice shall be in the form A. in the Schedule hereunto annexed, and which form such registrar is hereby required to supply gratis to any person applying for the same, and such notice shall bear the signature or mark of the person applying for the same, and shall be attested by two witnesses who shall be personally acquainted with either or both of such parties, and shall state therein the name, and (where they shall be different) the name by which he or she is commonly known, the condition, profession, and dwelling place of each of the parties intending to marry, and whether each of them is of full age or not; and the said registrar shall file every such notice and keep it with the records of his office, and shall also suspend a copy of such notice in a conspicuous place in his office, and shall also cause other publication of such notice to be made by affixing a copy thereof, at such conspicuous places in his district as shall for that purpose be appointed by the Registrar General, from the time of the entry thereof until the lawful period for issuing such certificate as herein-after mentioned, and shall also forthwith enter a true copy of the said notice, together with the date of entering the same, fairly into a book, to be called the marriage notice book, which shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same. For every such entry the registrar shall be entitled to such fee as the Governor, with the advice of the Executive Council, shall from time to time direct.

Where parties reside in different districts.

8. If both the parties shall not have dwelt for not less than twenty-one days in the same district as aforesaid, but shall have dwelt in different districts, the notice herein-before required shall be given to a registrar in each of such districts, and both notices shall be filed, suspended, published, and entered in the manner provided for in the preceding section, after which such registrars shall mutually forward to each other a certificate that such notice has been duly published in accordance with the provisions of the Ordinance: Provided that in case one of the parties shall have recently arrived in the Island, and shall not have acquired a residence therein, the notice given to the registrar of the district wherein the other party shall have resided shall be sufficient.

Certificate of notice to be given after 21 days.

9. At any time not more than three months, nor (except in pursuance of such license as is herein-after mentioned) less than twenty-one days after the entry of such notice, the registrar, or, in case the parties reside in different districts, the registrar of each district, upon being requested so to do by either of the parties in respect of whom such notice was given, shall issue under his hand a certificate of the form B., as near as is material, in the Schedule to this Ordinance annexed; provided that no lawful impediment be shown to the satisfaction of such registrar

why such certificate should not issue, and provided that the issue of such certificate shall not have been sooner forbidden in manner herein-after mentioned by any person or persons whose consent is required to the said marriage; and every such certificate shall state the particulars set forth in the notice, and the day on which the notice was entered, and that the issue of such certificate has not been forbidden by any person whose consent is required to the said marriage, and either that the full period of twenty-one days has elapsed since the entry of such notice or that the marriage is to be had in pursuance of such license as is herein-after mentioned; and for every such certificate the registrar shall be entitled to such fees as the Governor, with the advice of the Executive Council, shall from time to time direct: Provided that where a certificate shall have been forbidden, or a caveat entered, the time taken up in the disposal of the objection made to the marriage shall not count in the calculation of the three months from the entry of the notice within which the certificate may issue.

License to issue certificate before 21 days.

10. It shall be lawful for the Governor at any time after the entry of such notice, if he shall think fit, by license under his hand to be made in the form provided in Schedule C. hereto annexed, or to the like effect, to authorize the said registrar to issue such certificate as aforesaid, on or after any day named in such license: Provided always, that before any such license shall be issued, one of the parties intending marriage shall appear personally before the registrar and make oath or solemn affirmation that he or she believes that there is not any impediment of kindred or alliance, or of any other lawful cause, nor any suit commenced in any court to bar or hinder the said marriage, and either that the consent of the person or persons whose consent to such marriage is required by law has been obtained, or that no such consent is required, or that such marriage has been authorized by a judge as hereafter mentioned: Provided further, that for every such license the party requiring it shall supply a stamp of three pounds.

Persons whose consent is required may forbid issue of certificate.

11. Any person whose consent is required by law for any marriage may forbid the issue of the said certificate, by writing, at any time before the issue thereof, the word "forbidden," or some word of like meaning in the Singhalese or Tamul languages, opposite to the entry of the notice of such intended marriage in the marriage notice book, and by adding or causing to be added thereto his name and place of abode, and his relationship to either of the parties in respect of whom such consent is required; and in such case as well the said notice as any certificate which may afterwards be granted thereupon, and all other proceedings thereupon, shall be utterly void, unless the marriage shall have been authorized by a judge in manner herein-after provided.

Proceeding where issue of certificate forbidden.

12. If the issue of any certificate shall be forbidden, the registrar shall forthwith make report thereof to the district court of the district within which he shall be appointed to act, and shall suspend such issue or such publication, and all further proceedings there-

upon, until it shall have been decided by such court whether such certificate ought to be issued or not; and such court shall, as soon as possible after such report shall have been received, take the same into consideration, and decide, in as summary way as the circumstances of the case will permit, whether such certificate ought to be issued or not, or whether or not such publication should be stopped; and if such court shall decide that such certificate ought not to be issued or should be stopped, then the notice of marriage and all further proceedings had thereupon shall be null and void; and if such court shall decide that there exist no grounds for withholding such certificate, then the notice of marriage and all other proceedings in relation thereto shall be held valid and sufficient, and the registrar shall issue such certificate as if the publication had not been forbidden, and although the period of three months from the entry of the notice shall have expired; and if it shall appear to such court that the issue of such certificate has been forbidden on frivolous and vexatious grounds the court may condemn the party forbidding the same to pay, in addition to costs and all civil damages to which he may be liable, a fine not exceeding twenty pounds.

Caveat may be entered against issue of certificate.

13. Any person may, on payment of one pound, enter a caveat with the registrar against the grant of a certificate for the marriage of any person therein named, such caveat being duly signed by or on behalf of the person who enters the same, and stating his place of residence and the ground of objection on which the caveat is founded. No certificate shall in such case issue until the registrar shall have examined into the matter of the caveat, (which he is required to do forthwith,) and shall be satisfied that it ought not to obstruct the grant of the certificate for the said marriage, or until the caveat be withdrawn by the party who entered the same: Provided that in cases of doubt the registrar may refer the matter of any such caveat to the district judge of the district within which he is authorized to act, who shall decide upon the same summarily: Provided likewise, that in case of the registrar allowing or refusing the grant of the certificate, the person objecting to or requiring the same shall have a right to apply to such district judge by petition, who shall thereupon proceed in a summary way either to confirm the refusal or direct the grant of the certificate. Any person who shall enter a caveat with the registrar against the issue of any certificate on frivolous and vexatious grounds shall be liable, in addition to costs and civil damages as aforesaid, to a fine not exceeding twenty pounds.

Ministers of registered places of worship may solemnize marriages

14. On the delivery of such certificate to the minister of any registered place of worship, it shall be lawful for such minister to solemnize a marriage in such building between the parties named in such certificate: Provided always, that such marriage shall be solemnized with open doors between the hours of eight in the morning and six in the afternoon in the presence of two or more credible witnesses besides the said minister, and according to the usages of the church, denomination, or body to which such minister belongs, and not elsewhere or otherwise: Provided

also, that there be no lawful impediment to the marriage of such parties.

15. The parties named in such certificate may, if they shall prefer it, contract marriage at the office and in the presence of the registrar (whose duty it shall be to solemnize such marriage) and of two other witnesses, with open doors and between the hours aforesaid, each of the parties making in the presence of such registrar and witnesses the following declaration: "I do "solemnly declare that I know not of any lawful impediment why "I, *A.B.*, may not be joined in matrimony to *C.D.* here present," and each of the parties saying to the other, "I call upon these "persons present here to witness that I, *A.B.*, do take thee, *C.D.*, "to be my lawful wife [*or*] husband;" and the registrar shall be entitled for every such marriage to receive from the parties marrying such fee as the Governor, with the advice of the Executive Council, shall from time to time direct: Provided that, before administering such declaration, the registrar shall address the parties to the following effect: "Be it known unto you, *A.B.* "and *C.D.*, that by the public reception of each other as man and "wife in my presence, and the subsequent attestation thereof by "signing your name to that effect in the registry book, you be-"come legally married to each other, although no other rite of a "civil or religious nature shall take place; and know ye further "that the marriage now intended to be contracted cannot be "dissolved during your lifetime, except by a valid judgment of "divorce, and that if either of you before the death of the other "shall contract another marriage before the former is thus legally "dissolved, you will thereby become guilty of bigamy, and be "liable to the heavy penalties attached to that offence."

Marriages may be contracted before the registrar.

16. Whenever a marriage shall not be had within three months after the notice thereof shall have been entered by the registrar, except as is provided in the 9th section, the notice and any license or certificate which may have been granted thereupon, and all other proceedings thereupon, shall be utterly void; and no person shall proceed to solemnize the marriage, nor shall any registrar register the same, until new notice shall have been given and entry made and certificate thereof given at the time and in the manner aforesaid.

License or certificate void three months after entry of notice.

17. No clergyman or minister shall be compellable to solemnize marriage between persons either of whom shall not be a member of his own communion, nor otherwise than according to the rules or custom of such communion, nor unless he shall be satisfied by the declaration of the parties or otherwise that the proposed marriage is consistent with such rules or custom.

Clergymen, &c. not compellable to celebrate marriages.

18. Immediately after the solemnization of any marriage by the minister of any registered place of worship, the said minister shall enter into a book to be kept for that purpose in the said place of worship a statement of the said marriage in the form and comprising the particulars set forth in the form D. to the Schedule hereto annexed, or to a like effect, which entry shall be signed by the said minister and by the parties married and by two credible

Entry of marriages in places of worship.

witnesses of the said marriage, who shall also give their condition and residence; and the said minister shall forthwith transmit to the registrar a duplicate of such statement similarly signed; and all such statements shall be filed by the registrar, and duly preserved in his office.

Registration of marriages in registrar's office.

19. The registrar shall forthwith enter the above-mentioned particulars of every marriage contracted in his presence, and (with the word "copy" prefixed) all statements of marriages so transmitted to him as aforesaid into a marriage register book, which shall be made out in the form D. in the schedule hereto annexed; and every entry of such marriage contracted in the presence of the registrar shall be signed by him and by the parties married, and by two credible witnesses, who shall also give their condition and residence; and all entries made in the said book shall be made in order from the beginning to the end thereof; and every such entry, or any copy thereof certified under the hand of the said registrar, shall be the best evidence of the facts recorded therein in pursuance of this Ordinance before all courts and in all proceedings before or in which it may be necessary to give evidence of the marriage to which the same shall relate.

Power to supply defects or correct errors in registry.

20. Where a marriage has been heretofore contracted, or shall hereafter be contracted, which, without fault of the parties thereto, may have been omitted to be registered, or may have been erroneously registered, it shall be lawful to either of the said parties, or in case of his or her death the issue or other lawful representative of such party, to apply to the district court having jurisdiction over the district within which the marriage took place to have such marriage correctly registered; and the judge of such court shall cause the Registrar General, and the registrar of the district, and such other parties as to him shall appear expedient, to be noticed to show cause why such application shall not be granted. If no sufficient cause be shown to the contrary, and the court shall be satisfied after hearing such evidence as the parties may have it in their power to adduce that such marriage has been proved, it shall certify the same to the Registrar General, who shall thereupon cause such marriage to be registered.

21. Repealed. (See clause 6, Ord. 8 of 1865.)

Penalty for altering or destroying notices.

22. Any person who shall wilfully remove, alter, deface, or destroy any copy affixed under the authority of the 7th section of this Ordinance shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Penalty for failing to return or register marriages.

23. Any minister who shall fail to transmit to the registrar the statement required by the 18th section of this Ordinance within one week after solemnization of the marriage to which such statement relates, and every registrar who shall fail to register any such marriage within one week of receiving such statement, or who shall fail to register any marriage contracted before him on the day on which the same shall have been contracted, shall be liable for every such offence to a fine not exceeding ten pounds.

24. Any person who shall knowingly and wilfully make any false oath, declaration, or affirmation, or sign any false notice or certificate required by this Ordinance for the purpose of proving any marriage, and any person who shall forbid the issue of any registrar's certificate by falsely representing himself to be a person whose consent to such marriage is required by law, knowing such representations to be false, shall suffer the penalties of perjury.

Persons making false declarations, &c., shall be guilty of perjury.

25. Any person who shall knowingly and wilfully solemnize a marriage not being legally competent so to do, or between parties not legally competent to contract the same, or in any other places than the building or office herein specified, or before the issue of such certificate or after the expiration of three months from the entry of such notice as aforesaid, except as is provided in the 9th section, and any registrar who shall knowingly and wilfully issue any certificate of marriage after the period allowed by this Ordinance for issuing the same, except as aforesaid, or any certificate the issue of which shall have been forbidden in manner aforesaid by any person authorized so to forbid the same, except as hereinbefore provided, or who shall knowingly and wilfully register or allow to be contracted in his presence any marriage herein declared to be null and void, shall be liable to a fine not exceeding fifty pounds, and to imprisonment, with or without hard labour, not exceeding three years.

Persons unduly solemnizing a marriage, and registrar unduly issuing certificates, guilty of offence.

26. Any person who shall unlawfully and maliciously erase, obliterate, or destroy, or who shall knowingly and wilfully forge or alter, or falsely make or procure to be erased, obliterated, destroyed, forged, altered, or falsely made, any notice, license, certificate, entry, or statement mentioned in this Ordinance, or any certified copy thereof respectively, or shall knowingly and wilfully utter or publish as true any such forged, false, or altered copy, shall be liable for every such offence to imprisonment, with or without hard labour, for any term not exceeding three years.

Persons destroying or forging documents liable to imprisonment.

27. After any marriage shall have been contracted, it shall not be necessary in support of such marriage to give any proof of the consent of any party whose consent thereunto is required by law; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

No evidence of consent is necessary after marriage.

28. All decisions and orders of any Court made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought or prosecuted in such manner and shall be subject to such regulations as now exist or shall hereafter be made by law.

Appeal.

29. This Ordinance, and the sections 1, 7, 10, 11, 18, 23, 26, 27, 28, 29, 30, 31, 32, and 33, of the Ordinance No. 6 of 1847, shall be read and construed as if they formed one Ordinance.

This Ordinance and unexpired sections of No. 6 of 1847 to be read as one.

30. Has had its effect.

SCHEDULE.

A.

NOTICE OF MARRIAGE.

To the Registrar of Marriages *in the District of Colombo.*

I hereby give you notice, that a marriage is intended to be had within three months from the date hereof between me and the other party herein named and described; (that is to say,)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Consent, if any, by whom given.
James Smith - -	*Widower* -	*Carpenter* -	*Full age* -	*Grandpass*	*Henry Green* (*Father of Martha Green*) (or *District Judge of*), as the case may be.
Martha Green - -	*Spinster* -	—	*Minor* -	*Pantura.*	

Witness my hand this 1*st day of May* 1864.

James Smith.

Witnesses.
Thomas Brown,
Henry Jones.

[The *Italics* in the Schedule to be filled up as the case may be.]

B.

REGISTRAR'S CERTIFICATE.

I, *John Cox*, Registrar of Marriages in the District of *Colombo*, do hereby certify that on the 6*th day of May* notice was duly entered in the Marriage Notice Book of the said district of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties; that is to say,

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.
James Smith	*Widower*	*Carpenter*	*Of full age*	*Grandpass.*
Martha Green	*Spinster*	—	*Minor*	*Pantura.*

Date of notice entered, 6*th May* 1864.
Date of certificate given, 27*th May* 1864.

The issue of this certificate (*when the certificate is issued under license from the Governor, insert "is authorized by license of the Governor and"*) has not been forbidden by any person authorized to forbid the issue thereof.

Witness my hand this 27*th day of May* 1864.

(Signed) *John Cox*, Registrar.

This certificate will be void unless the marriage is solemnized on or before the 6*th day of August* 1862.

[*Italics* in the Schedule to be filled up as the case may be.]

C.

MARRIAGE LICENSE.

Whereas on the *6th day of May* 1864 notice was given to the Registrar of Marriages in the district of *Colombo* of a marriage intended to be had between *A.B.* and *C.D.*, therein mentioned, and the said *A.B.* desires to obtain a license for the immediate issue of a certificate of such notice, and has made before the said registrar the declaration required for that purpose by the 10th section of an Ordinance passed, &c., and intituled, &c.

Now therefore in pursuance of the provisions of the said Ordinance, I do hereby authorize the said registrar to issue the said certificate at any time after the *10th day of May*, and within three calendar months of the said *5th day of May*.

Given under my hand this *6th day of May* 1864.

(Signed)

Governor.

[*Italics* in the Schedule to be filled up as the case may be.]

D.

No.	Date of Marriage.	Names and Surnames of Parties.	Ages.	Condition.	Rank or Profession.	Residence at Time of Marriage.	Place of Marriage.	Signature of Parties.	Signature of Officiating Minister and Witnesses.
	30th May 1864.	*James Smith* *Martha Green*	*Full age* *Minor*	*Widower* *Spinster*	*Carpenter* —	*Grand Pass* *Pantura*	*Trinity Church, Registrar's Office,* (or otherwise, as the case may be).	*James Smith* *Martha Green*	*George Schrader, Officiating Minister,* or *John Cox, Registrar* (as the case may be), *Henry Jones, Clerk, Prince Street, Pettah, Edward Harris, Proctor, Hultsdorp, Witnesses to the Marriage.*

[*Italics* in the Schedule to be filled up as the case may be.]

23rd December 1863.

Amendment of No. 26 of 1852 and No. 24 of 1848.

142.

No. 2 of 1864.

An Ordinance to amend the Ordinance No. 26 of 1852.

Preamble.

Whereas it is expedient to amend the Ordinance No. 26 of 1852, entitled "An Ordinance to make other Provisions respecting the Sale of Salt:" It is enacted as follows:

1. Repealing clause.

Penalty for selling salt by short measure, &c.

2. Any storekeeper or other person selling salt on behalf of Government, and every licensed retailer of salt who shall be convicted of selling salt by measure, or of issuing salt by short or false weight, or of demanding more than the price fixed by Government, shall be subject to a fine not exceeding ten pounds for each offence; and the half of all fines actually recovered shall be paid to the informer.

This Ordinance and Ordinance 26 of 1852 to be deemed one.

3. This Ordinance and the Ordinance No. 26 of 1852 shall be read and construed as if they formed one Ordinance.

9th January 1864.

143.

No. 4 of 1864.

An Ordinance to amend the Ordinance No. 24 of 1848, entitled an Ordinance "To regulate the felling and removal "of Timber grown on the Crown Lands in this Island."

Preamble.

Whereas it is expedient to amend the Ordinance No. 24 of 1848, entitled "An Ordinance to regulate the felling and removal of Timber grown on the Crown Lands in this Island:" It is enacted as follows:

Repeal of punishment of 5*l*, under 5th and 8th sections, and the 14th section of Ordinance.

1. The 5th and 8th sections of the said Ordinance, so far only as they prescribe the punishment of a fine not exceeding five pounds for any of the offences therein set out, and no further, and the 14th section thereof, are hereby repealed.

Punishment instead of 5*l*. fine.

2. Every person guilty of an offence under the 5th and 8th sections of the said Ordinance shall be liable, on conviction thereof, to such punishment by fine or imprisonment, with or without hard labour, as it shall be competent for the court before which such conviction shall be obtained to award.

Limitation of prosecution.

3. No prosecution shall be instituted against any person for any offence committed against any of the provisions of the said Ordinance unless the same shall be commenced within two years from the time of the commission of such offence.

This Ordinance and No. 24 of 1848 to be taken as one.

4. This Ordinance and the Ordinance No. 24 of 1848 shall be read and construed as if they formed one Ordinance.

5. Has had its effect.

21st September 1864.

144.

No. 5 OF 1864.

An Ordinance to regulate the Temporal Affairs of Churches not provided for in the Ordinance No. 12 of 1846.

WHEREAS the Ordinance No. 12 of 1846 makes provision for regulating the temporal affairs of certain episcopal churches, and it is expedient that like provision should be made for and in respect of churches other than those referred to in that enactment: It is enacted as follows: Preamble.

1. Repealing clause.

2. For the purposes of this Ordinance, except when otherwise provided, the word "church" shall be construed to mean any place set apart for the purposes of Christian worship other than those referred to in the Ordinance No. 12 of 1846; "the trustees" shall mean the trustees elected or appointed under the provisions of this Ordinance; and "the minister" shall mean the person usually officiating in such church and conducting the public worship therein. Interpretation clause.

3. It shall be lawful for the minister or ministers of any church already erected, or for any five or more persons who shall have subscribed for the erection thereof, or who attend it for purposes of worship, or for the building committee or persons in charge of the building of any church proposed to be erected, or whilst the same is in course of erection, to fix a place and a day for holding a general meeting in manner herein-after appointed, giving notice thereof in three successive "Government Gazettes:" Provided that if the church belong to or be vested in any person, society, or corporation, no proceedings can be taken to bring the same within the operation of this Ordinance without the consent, previously obtained, of such person, society, or corporation; any proceeding taken without such consent shall be null and void. Notice of election of trustees. Proviso.

4. Every meeting so convened shall be held at the time and place appointed, and at every such meeting it shall be lawful for the subscribers to any church not completed and used for public worship at the time such meeting is held, or for the seat-holders or members of the congregation of the church, if the same shall then have been completed and used, to determine whether such church is to be brought within the provisions of this Ordinance, and, if this be decided in the affirmative, to elect three trustees: Provided that no subscriber or seat-holder or member of the congregation shall be entitled to give more than one vote, or to give any vote except in person, and that no person shall be entitled to vote who shall not be twenty-one years of age; and the person or persons who shall have convened such meeting shall record the names of the voters, and (if the meeting proceed to the election of trustees) of the persons for whom their votes shall have been given, and shall at the close of the meeting declare the determination of the voters and (if any election shall have taken place) the names of the three persons elected to be trustees by the greatest number of votes, and shall grant to such persons certificates under their hands of such election. Mode of holding meeting. Mode of voting.

Vacancy of trustees.

5. In case of the death, incapacity, resignation, or departure of any trustee, or in case any such trustee shall become a lunatic, or otherwise disqualified to act, the remaining trustees shall fix a place and a day for holding an election of a new trustee, and shall give notice thereof in the three successive "Government Gazettes" published next immediately preceding such day; and the election shall be held by the said trustees according to the forms herein-before prescribed for election of trustees.

Trustee resigning to render account.

6. No trustee shall be permitted to resign his office until he shall have duly accounted, to the satisfaction of his co-trustees, for all sums of money at any time received by him in his trust.

Annual election of trustees.

First Monday in December in church.

7. No trustee shall, unless re-elected, continue in office beyond the thirty-first day of December next after his election or appointment. A general meeting shall be held on the first Monday in the month of December in every year, for the election of three new trustees for the year commencing on the first of January next ensuing; and such election shall be held according to the forms herein-before prescribed for the election of trustees.

Proceeding where no meeting is fixed

8. If the trustees shall for the period of one month neglect to fix a place and a day for holding an election of a trustee, in the room of one who may have vacated his office, then any six of the subscribers or seat holders, as the case may be, may fix the place and day, and give notice of the same in manner herein-before appointed; and the election shall be held before the minister or ministers of the church. If no election shall be held within two months from the time above prescribed, it shall be lawful for the minister or ministers, or should the minister or ministers fail to do so, or disagree, for the trustees of the preceding year to appoint one or more persons as trustees, and every such trustee so appointed shall continue in office until the thirty-first day of December next ensuing.

Chairman of trustees.

9. The minister shall, whenever present at any meeting of the trustees, be ex-officio chairman of such meeting, and if more ministers than one usually officiate at such church, each shall be chairman in turn. When no minister is present the trustees shall elect their own chairman. All matters before the trustees, in cases where they differ, shall be decided by a majority of their votes, each trustee having one vote on each matter or case, and in the event of an equality of votes the chairman shall have the casting vote.

Quorum.

Three trustees, or two trustees with the ex-officio chairman, shall form a quorum.

Trustees may make byelaws.

10. The trustees shall have power from time to time to make byelaws (not inconsistent with this Ordinance) for their general guidance, which laws shall be equally binding on their successors until repealed or altered.

Meetings of trustees.

11. The meetings of the trustees shall take place on days agreed to by a majority, for the transaction of ordinary business, and if the meeting be extraordinary or special, seven days notice thereof, and of its object, shall be given in writing to each of the trustees and to the minister, and two trustees may at any time convene a special meeting.

Property vested in trustees.

12. The real estate and property in the church, and in the minister's dwelling or burial ground attached to the church, and their appurtenances respectively, and in all lands, monies, and

chattels belonging thereto, shall be vested in the trustees, for the purposes of their trust.

13. The trustees may make and execute and compel the performance and execution of all contracts, agreements, matters, and things, and may commence and maintain all suits necessary to their trust. All contracts and agreements shall and may be entered into and enforced, and all suits be brought by them in the name of the trustees, specifiying the name of the church without specifying the trustees; and no suit shall abate by the death or vacancy in the office of any trustee. All suits the cause of which shall accrue to any person from any contract, agreement, or other matter made, executed, done, or performed by the trustees, as such, shall be brought against the trustees under the name and title aforesaid. Trustees to make agreements.

14. The trustees may from time to time set out and apportion the sittings in the church, and fix a rent for such sittings, and make agreements with any person desirous to engage the same. Trustees to appoint sittings.

15. Where seats are apportioned, every subscriber to the church *bonâ fide* resident within twenty miles of the same shall be entitled to engage the number of sittings therein which he may require for the use of himself and family, and the priority of choice amongst the subscribers shall be determined by the trustees. Subscribers entitled to sittings.

16. The trustees shall collect, or shall cause to be collected, the rents due for sittings, and all subscriptions and donations to the church, and all other revenues arising out of any land or other property belonging to the church, and all fees and payments for vaults and tombstones; and shall appoint, suspend, and remove all officers and servants of the church, and manage the temporalities of the church, and provide the articles necessary for Divine worship therein; and shall fix the salaries or wages of the officers and servants, and shall pay the said salaries or wages, as well as other expenses incident to the church or its property, from the rents and fees and other funds arising out of the property of the church. Trustees to collect monies.

17. The trustees may, with the previous consent of the ministers, and with their approval of any proposed epitaph or inscription, permit any monument to be erected or placed in a convenient part of the church, or of the enclosed ground round about it, or of the burial ground belonging to it, or may permit vaults to be dug and made in the burial ground, upon payment to the trustees, for such permission, of such charges as the trustees shall appoint, provided that the same shall in no case exceed the charges set forth in the schedule hereunto annexed. Any person erecting or placing any monument in the church or the enclosed ground round about it, or digging or making any vault in the burial ground, by and with the permission aforesaid, shall have a right to maintain and keep up such monument or vault, according to the terms of the permission, to and for the sole and separate use of the said person, and his heirs for ever: Provided always, that it shall not be lawful to bury any body within the church or within the enclosed ground round about it. Erection of monument, &c. No burial.

18. One person, not being a trustee, shall be elected at the general meeting for the election of trustees, to be an auditor of the accounts of the trustees for the year succeeding his appointment. Appointment of auditor.

Trustees to keep account.

19. The trustees shall keep a written account of all monies received and paid by them, which account the auditor may inspect at all reasonable times, and the account, together with any report of the auditor thereon, shall be open to the inspection of the seat-holders or members of the congregation at all reasonable times.

Trustees may accept lands.

20. The trustees may accept and take from private persons, or from the Crown, gifts or grants of land for the site of a minister's dwelling, with a garden and other appurtenances, or for a burial ground, or any lands for the maintenance of the church, or of the ministers; and the land so given or granted shall be for ever vested in the trustees, in trust for the purpose for which it is given or granted.

Person disturbing public worship.

21. Any person who shall wilfully and maliciously, either within or outside the church, disturb Divine worship therein, or in any way during Divine worship molest any of the congregation, shall be guilty of an offence, and be liable, on conviction, to a fine not exceeding five pounds.

Ordinance No. 13 of 1845 saved.

22. Nothing in this Ordinance contained shall be construed to affect the Ordinance No. 13 of 1845, intituled "An Ordinance to "regulate the Temporal Affairs of the Presbyterian Church in "Kandy, in the Island of Ceylon," but the same shall be of full force, anything in this Ordinance to the contrary notwithstanding.

SCHEDULE.

Erecting a tablet or monument in the church, not less than five nor more than twenty pounds.

Erecting a monument in the ground adjoining the church, not being a burial ground, any sum not less than three pounds.

Burial in a brick or stone grave in the burial ground, one pound.

Head-stone or foot-stone (each) ten shillings.

A stone covering over such grave, one pound.

A vault, for each person it is capable of containing, one pound ten shillings; and on every occasion of its being opened, one pound.

A raised tomb over a vault, for each person it is capable of containing, one pound ten shillings.

19th October 1864.

145.

No. 7 OF 1864.

An Ordinance to amend the Ordinance No. 19 of 1862, intituled "An Ordinance for raising 1,000,000*l.* sterling "on Debentures, for the construction of a Railway from "Colombo to Kandy," and to provide for the formation of a Sinking Fund.

Preamble.

WHEREAS it is expedient to amend in certain respects the Ordinance No. 19 of 1862, intituled "An Ordinance for raising

Amendment of No. 19 *of* 1862.

" 1,000,000*l.* sterling on debentures, for the construction of a Rail-
" way from Colombo to Kandy," and to provide for the formation of
" a sinking fund : It is enacted as follows :

1. Nothing in the said Ordinance No. 19 of 1862 contained shall prevent the insertion in the debentures and coupons prescribed hereby of particulars touching the total amount authorized by the Ordinance to be raised, the amount of each separate instalment raised, the number and value of the several bonds comprised in each issue, and such other matters connected with the loan and payment thereof as the Agents General for the Crown Colonies, with the sanction of Her Majesty's Principal Secretary of State for the Colonies, may deem it expedient to furnish in such debentures and coupons.

Particulars may be inserted in the debentures and coupons.

2. The 11th section of the said Ordinance No. 19 of 1862 is hereby repealed, and in lieu thereof it is hereby provided that no interest shall be payable on debentures issued under the authority of this Ordinance for any term beyond that fixed for the payment of such debentures and specified therein.

When interest shall cease.

3. It shall be lawful for the Government of Ceylon to incur a total expenditure not exceeding one million one hundred thousand pounds sterling, inclusive of the amount already spent for railway construction purposes as herein-after defined; and to provide for meeting this expenditure partly by the issue of debentures under the said Ordinance No. 19 of 1862, for a sum not exceeding seven hundred thousand pounds sterling, and partly out of general revenue and the unexpended balances of the revenue of past years; and such railway construction purposes shall include as well payments under the contract confirmed and ratified by the Ordinance No. 1 of 1863, as payments for land, rolling stock, establishments, and other matters connected with or relating to such railway, since the date of such contract.

Government to incur expenditure of 1,100,000*l.* for railway construction purposes.

4. A separate fund shall be formed and regulated in such manner as the Governor may, with the approval of the said Secretary of State, from time to time direct, for the joint purposes of contributing to the construction of the railway, and of paying the interest of the debt incurred for and on account thereof (including the interest of the debentures issued under the Ordinance No. 10 of 1860), until the 1st day of January 1867; and such fund shall be composed of the following items; to wit, all sums collected under the Ordinance No. 2 of 1856, entitled "An Ordinance to impose a Duty on Exports," and now remaining unexpended, and all sums to be hereafter collected on such account, a sum of thirty thousand pounds sterling from the general revenue for the current, and thirty-five thousand pounds sterling for each of the two succeeding years, the sum of two hundred and fifty thousand pounds voted under the Ordinance No. 3 of 1864, and the profits, if any, arising from the partial working of the railway before the 1st day of January 1867, as well as the interest realized from the deposit or investment of the balances of construction funds, whether derived from the issue of debentures or otherwise. So much of the fund thus composed as is not required for the payment of interest

Formation of fund to pay for railway construction purposes, and the interest due on debts incurred on account thereof.

on debentures issued under the Ordinance No. 10 of 1860, and the Ordinance No. 19 of 1862, during the construction of the railway (that is, until the 1st day of January 1867) shall be applied, as far as possible, to construction purposes in aid of the proceeds of debentures, and any balance of the fund remaining on the 1st day of January 1867 shall be paid over to the sinking fund to be then formed as herein-after directed.

5. Repealed. (See Ordinance No. 9 of 1869.)

Amount in sinking fund to be invested.

6. All sums paid to the account of the sinking fund, and all interest or produce arising therefrom, shall be invested under trustees in the purchase of Imperial, Indian, or Colonial Government securities. The nature of such securities and the selection of such trustees shall be determined by and vested in the said Secretary of State, or from time to time if he so direct, in the Governor, by and with the advice and consent of the Executive Council.

Government may buy up debentures at any time.

7. Should it be found advisable, however, at any time before the periods fixed for the final redemption of the debentures to extinguish any such debentures by withdrawing them from the market by purchase, the Governor, with the advice and consent of the Executive Council, shall, by a duly authorized agent, be fully empowered, with the sanction of the said Secretary of State, to make use of the sinking fund for that purpose: Provided that all debentures so purchased shall be cancelled and destroyed, and that no re-issue of debentures shall be made in consequence of such purchase and destruction.

In case of deficit additional taxes to be raised.

8. In case there shall be any deficit in the general revenues of the Colony to meet the aforesaid payments, or to meet any part of the cost of the fixed establishment or services that may have been prejudiced or displaced thereby, such deficit shall be provided for by the imposition of such taxes or duties as the Legislature for the time being shall deem proper.

9. Has had its effect.

26th October 1864.

146.

No. 12 of 1864.

An Ordinance to provide for the production in Evidence of Copies, instead of Originals, of Public Documents.

Preamble.

Whereas much inconvenience is experienced from the practice, which is now common, of summoning public officers to produce in evidence books and documents in their custody: It is enacted as follows:

Copies must be produced in evidence instead of originals.

1. Whenever it shall be necessary for any person to adduce proof in any court of justice, or before any person now or hereafter having, by law or consent of parties, authority to hear,

receive, and examine evidence of the contents of any book or document in any public office or in charge of any public officer, he shall only produce a copy or extract therefrom, signed and certified by the officer to whose custody the original is intrusted, and such copy or extract shall be admissible in evidence in such court, or before such person, in place of the original: Provided that it shall be lawful for the judge, or person presiding in such court, or such other person as aforesaid, to require (upon his being satisfied that in any particular cause or inquiry such production is necessary for the ends of justice,) that the original of such book or document should be produced in addition to the copy as aforesaid.

Charges for such copies.

2. Public officers to whose custody the originals of such books or documents are intrusted are hereby required to furnish certified copies or extracts therefrom on payment, by the party applying therefor, of a fee of ninepence for every folio of 120 words, or of two shillings for each copy of a title deed plan on tracing cloth, and six shillings for each copy on drawing paper, such fees to be appropriated in such manner as the Governor shall from time to time appoint.

3. Has had its effect.

16th November 1864.

147.

No. 13 OF 1864.

An Ordinance for regulating the Sale of Bread, and preventing its Adulteration.

Preamble.

WHEREAS it is expedient to make provisions respecting the Sale of Bread, and to prevent the Adulteration thereof: It is enacted as follows:

Bread to be sold by weight.

1. It shall not be lawful for any baker or vendor of bread to sell any bread, other than French or fancy bread, and rolls, except by weight, any law or usage to the contrary notwithstanding.

Weight to be stamped on bread.

Of the standard weight of this Colony.

2. All bread, except French or fancy bread, and rolls, shall be stamped with figures denoting one or other of the following weights, to wit., $\frac{1}{4}$ lb., $\frac{1}{2}$ lb., 1 lb., 2 lbs., and 4 lbs., and which said weights shall respectively be of the avoirdupois weight of sixteen ounces to the pound, and the several gradations of the same for any quantity less than a pound; and if any baker or vendor of bread shall sell any bread except as aforesaid which shall not weigh so much as the figures stamped thereon indicate, he shall be liable to a fine not exceeding two pounds for each offence.

Means of weighing to be provided.

3. Every baker or vendor of bread shall cause to be fixed in some conspicuous part of his shop a beam and scales with standard weights or other sufficient balance, in order that all bread, except as aforesaid, there sold, may from time to time be weighed in the

presence of the purchasers thereof, if they shall so require; and if any baker or vendor of bread shall neglect to fix such beams and scales or other sufficient balance in manner aforesaid, or to provide and keep for use a proper beam and scales and proper weights or balance, or shall use any false weight, or shall not weigh bread sold in his shop, when required so to do by a purchaser, he shall be liable to a fine not exceeding five pounds sterling for each offence.

Adulteration of bread an offence.

4. Any baker or other person or persons who shall make bread for sale, or any person in the employ of any such baker or other person, who shall, on any account or under any colour or pretence whatsoever, at any time in the making of bread for sale use any mixture or ingredient whatsoever which shall, after due examination, be adjudged by any magistrate to have the effect of adulterating such bread, or any damaged grain, flour, or meal, shall be liable, for the first offence, to a fine not exceeding five pounds, and to a fine of ten pounds for every subsequent offence.

Adulterating corn, meal, or flour, &c., an offence.

5. If any person shall put into any corn, meal, or flour which shall be offered for sale, either before or at the time of grinding, dressing, bolting, or manufacturing the same, or at any other time, any ingredient or mixture whatsoever, not being the real and genuine produce of the corn or grain; or if any person shall knowingly sell, or offer or expose for sale, either separately or mixed, any meal or flour of one sort of corn or grain as the meal or flour of any other sort of corn or grain, or any ingredient whatsoever mixed with the meal or flour so offered or exposed for sale, then and in every such case every person so offending shall be liable to a fine not exceeding twenty pounds.

Magistrates may search bakers' &c., premises, and seize adulterated flour, &c.

6. It shall be lawful for any justice of the peace within the limit of his jurisdiction, and also for any police or peace officer, or other person authorized by the warrant of any such justice of the peace (and which warrant any such justice is hereby empowered to grant), at seasonable times in the daytime to enter into any house, mill, shop, stall, or other premises of or belonging to any miller, mealman, or baker, or other person who shall grind grain or dress or bolt meal or flour or make bread for reward or sale, or who shall have corn or meal for sale, and to weigh the bread kept there for sale, and to search or examine whether any mixture or ingredient not the genuine produce of the grain such meal or flour shall import or ought to be shall have been mixed with or put into any meal or flour in the possession of such miller, mealman, or baker, whereby the purity of any meal or flour is or shall be in anywise adulterated, or for damaged grain, flour, or meal; and if, on any such search, it shall appear that any bread is not of the weight which it purports to be, or is not stamped as required by this Ordinance, or that any meal, flour, dough, or bread so found shall have been damaged or so adulterated by the person in whose possession it shall then be, or any mixture or ingredients shall be found which shall seem to have been deposited there in order to be used in the adulteration of meal, flour, or bread, then and in every such case it shall be lawful for every such justice, police or peace officer, or other person authorized as aforesaid,

within the limits of their respective jurisdictions, to seize and take any meal, flour, or bread which shall be found in any such search and deemed to have been damaged or adulterated, and all ingredients and mixtures which shall be found and deemed to have been used or intended to be used in or for any such adulteration as aforesaid, to the police magistrate having jurisdiction in the district where such seizure took place, and such magistrate is hereby authorized and required to dispose of the same as he in his discretion shall from time to time think proper.

Persons in whose premises ingredients for adulteration found, punishable.

7. Every person in whose house, mill, shop, stall, or premises, any ingredient or mixture shall be found which shall, after due examination, be adjudged by any magistrate to have been deposited there for the purpose of being used in adulterating meal, flour, or bread, or any damaged grain, flour, or meal, shall be liable to a fine not exceeding two pounds for the first offence, five pounds for the second offence, and ten pounds for every subsequent offence.

Publication of convictions.

8. Magistrates before whom persons are convicted for offences under the 3rd, 4th, and 5th sections of this Ordinance are hereby required to report the same to the Governor; and it shall be lawful for the Governor, with the advice and consent of the Executive Council, to cause such offenders' names, places of abode, and offences to be published in the towns or places where the offences were committed, in such manner as to secure the greatest publicity thereto; and it shall be lawful for magistrates, who shall report such proceedings as aforesaid, upon presentation of certificates of the costs of such publication, signed by the Treasurer of the Island, to issue warrants for the distress and sale of so much of the property of the offenders as shall be sufficient for the repayment to the Treasurer of such costs, and of the costs of the distress and sale.

9. Has had its effect.

16th November 1864.

148.

No. 18 of 1864.

An Ordinance for giving effect to certain Rules and Orders for District Courts.

Preamble.

Whereas by the Ordinance No. 8 of 1846, entitled "For "rendering the Operation of Rules of Court contingent on their "enactment by the Legislature," it is provided that whenever any general rule of court, framed by the judges of the Supreme Court, shall have been transmitted to the Governor, in the manner directed by the said Ordinance, such rule shall be laid by the said Governor, in the form of an Ordinance, before the Legislative Council, to be considered and dealt with by the said Council in such and the same manner as any other Ordinance; and that no general rule framed by the said judges shall operate and take

effect until the same shall have been duly enacted: And whereas the judges have transmitted to the Governor, in the manner directed by the said Ordinance, the general rules and orders in the Schedule to this Ordinance annexed:

It is therefore enacted, that the general rules and orders in the Schedule to this Ordinance annexed are hereby confirmed, and shall come into operation and take effect from and after the first day of January one thousand eight hundred and sixty-five.

SCHEDULE.

WITH reference to Rule 15 of Section 1 of the District Court Rules and Orders of October 1st, 1833, and to Rules 1 and 4 in the Schedule of General Rules of Courts annexed to Ordinance No. 15 of 1856, it is ordered :—

1. That the Plaintiff's own statement or affidavit to cause of action or damage sustained, shall not be indispensably necessary for obtaining a warrant of arrest or mandate of sequestration under the said rules in any of the following cases :

A. Where the action is brought by the Queen's Advocate :

In such case the affidavit of any officer of the Crown who has personal knowledge of the cause of action or damage sustained, may be received instead of a statement or affidavit by the plaintiff himself.

B. Where the action is brought by a corporation :

In such case the affidavit of a manager or agent of the said corporation having personal knowledge of the cause of action or damage sustained, may be received instead of a statement or affidavit by the plaintiff.

C. Where the plaintiff is absent from the Island, or is unable from bodily or mental infirmity to make the required statement or affidavit :

In such case the district judge may receive, instead of a statement or affidavit by the plaintiff, the affidavit of any agent of the plaintiff having lawful authority to bring and conduct the action, and having personal knowledge of the existence of the cause of action or damage sustained :

Provided that, in all and each of the above stated cases, the person making the affidavit instead of the plaintiff shall expressly swear that he deposes from his own personal knowledge to the matters therein contained.

2. That every person making such affidavit instead of the plaintiff shall be liable to be examined as to the subject matter thereof at the discretion of the district judge, as the plaintiff would have been if the affidavit had been made by the plaintiff, and every person who in the course of any of the proceedings

aforesaid makes wilfully any false statement may, besides his liability to be tried and punished for perjury in a criminal court, be summarily punished by the district court judge for contempt of court; and nothing herein contained shall deprive any party aggrieved by such false statement of any other redress which may be open to him according to law.

29th December 1864.

149.

No. 3 of 1865.

An Ordinance to amend the Ordinance No. 8 of 1863.

Preamble.

Whereas it is expedient to amend the Ordinance No. 8 of 1863, entitled "An Ordinance to provide for the Registration of Titles to Land and of all Deeds affecting Land in this Colony:" It is enacted as follows:

1. Repealing clause.

I.—*Registration Department and Officers.*

Appointments under the Ordinance.

2. The appointments under the 3rd and 5th sections of the Ordinance No. 8 of 1863, to which are attached salaries exceeding two hundred pounds a year, shall be vested in and shall be held during the pleasure of Her Majesty, her heirs and successors: Provided that it shall be lawful for the Governor to appoint any person provisionally to such offices until the pleasure of Her Majesty shall be made known.

IV.—*Investigation and Settlement of Claims.*

Registrar must appoint time and place for registering.

3. After the statements of claims are filed and numbered in manner provided by the 16th section of the said Ordinance, the registrar shall appoint a time, as early as conveniently can be, and a place for investigating each claim to which no opposition is made or adverse right asserted, giving notice thereof to the claimant or his agent. The registrar may, if he think fit, from time to time appoint any other place or any other time for the investigation, or may adjourn the investigation from place to place and from time to time.

Investigation of claim.

4. The claimant or his agent shall appear before the registrar at any place and time appointed by him for the investigation, and the registrar shall there investigate and consider the evidence, whether documentary, oral, or otherwise, adduced by the claimant or his agent in support of the claim to the lands described in the claim, or any part thereof; and if, in the judgment of the registrar, the evidence so adduced shows that the claimant has a *primâ facie* title to those lands, or any part thereof, the registrar shall proceed with respect to the same according to the provisions of the said Ordinance.

Appeal to the District Court.

5. If the applicant or his agent be dissatisfied in whole or in part with the decision of the registrar, he may, within three months after the pronouncing thereof, appeal to the district court having jurisdiction in the place where such land is situate, and such district court shall proceed summarily to hear and dispose of such appeal.

Disposal of appeal.

6. If upon the hearing of such appeal by the district court, the evidence, whether documentary, oral, or otherwise, adduced by the claimant or his agent in support of his claim to the lands, or any part thereof, shall, in the judgment of the district court, show that the applicant has a *primâ facie* title to those lands, or any part thereof, the district court shall issue an order, under the seal of the court, authorizing and requiring the registrar to proceed with respect to the same according to the provisions of the said Ordinance.

What shall be evidence of *primâ facie* title.

7. The registrar or the district court, as the case may be, shall accept as evidence of a *primâ facie* title, for the purposes of registration, such evidence of title as, according to the laws and customs of this Island, would, in the judgment of the registrar or district court, be accepted by a willing purchaser as sufficient evidence of a title.

V.—*Publication of Claims.*

Action to be brought within six months.

8. The 24th section of the said Ordinance is repealed, and it is enacted instead thereof that all persons who, under the 18th section thereof, shall have been directed to bring their action, shall be bound to commence such action, and to give notice thereof to the registrar within the said period of six months, or within such extended period as the registrar may, on cause shown to his satisfaction, by writing appoint; and in default thereof the registrar shall proceed to deal with the original claim as if no adverse right had been asserted.

VI.—*Registration of existing Titles, Interests, and Incumbrances.*

What claims certificate shall bar.

9. The 32nd and 33rd sections of the said Ordinance are repealed, and it is enacted instead thereof that every certificate of incumbrance or interest shall have the effect of absolutely barring all claims to the land therein mentioned, save and except such rights, titles, or interests as are registered in the books of the registrar, and save and except as is excepted by the 10th section of this Ordinance.

What claims may be made after certificate.

10. Excepting as is herein-after excepted, persons having or claiming to have any right, title, or interest in or to any land against the holder of the certificate shall be entitled to prosecute their claim by action against such holder, within three years from the date of the certificate. Persons absent from the Island whose claims shall not have been preferred by their agents, and disposed of under the provisions of the said Ordinance, shall be entitled to prosecute their claims within four years from the date of such certificate. Persons under legal disability shall be entitled to prosecute their

claims within three years from their disability ceasing: Provided, however, that the term hereby fixed for prosecuting claims shall only begin to run against parties claiming estates in remainder or reversion from the time when the parties so claiming acquired a right of possession to the lands which form the subject of their claims: Provided, further, that should the holder of the certificate have alienated for valuable consideration the land, or his interest therein, at any time after two years from the date thereof, and before the prosecution of a claim, as above provided, such claim shall be deemed to be extinguished, and be null and void as against the holder of the land for valuable consideration, saving, however, to the claimant the right to proceed against the person to whom the certificate was originally granted, to recover the value of such land or interest therein at the time when the same was so alienated, or such greater sum as may, in the opinion of the court before which the claim is prosecuted, be equivalent to the injury which he has sustained by the loss of the land or interest.

VII.—*Interim Registration.*

Notaries, &c. to transmit duplicate to Registrar.

11. The 35th section of the said Ordinance is repealed, and it is enacted instead thereof, that every notary public, district judge, commissioner, or justice of the peace before whom any deed or other instrument shall be executed, and who under the provisions of the Ordinances Nos. 16 and 17 of 1852 shall be bound to deliver or transmit a duplicate thereof to the district court shall, instead thereof, deliver or transmit the same to the registrar of the district wherein such notary resides; and in case the land is situate in a district other than that in which such notary, judge, commissioner, or justice is a resident, he shall likewise transmit or deliver a copy of such deed to the registrar of the last-mentioned district; subject, however, in respect of notaries, to the same provisoes and penalties as are imposed by the 11th section of the Ordinance No. 16 of 1852.

VIII.—*Registration of future Alienations and Incumbrances.*

Registration should be in branch office of district.

12. The registration required by the 38th and 40th sections of the Ordinance No. 8 of 1863 shall be made in the branch office of the district where the land is situate, and not in the branch office of the province or district.

Applications for registration of probates, &c.

13. When a party applies to have a probate or letters of administration registered, he should produce to the registrar an authenticated copy of the inventory or list of appraisement filed in the case in which application for probate or administration was made, and should further give such description of the land as the registrar shall require for the purposes of registration.

Deeds, &c., should describe lands accurately.

14. Every deed, judgment, order, or other instrument, or duplicate or authenticated copy thereof, produced for registration, should contain embodied therein, or in a schedule annexed thereto, an accurate description of the property which is affected thereby, its boundaries, extent, and situation with respect to the village, pattoo, corle, or other division of the district. If such property

consists of a portion only of one land or allotment, such portion shall be clearly and accurately defined by its particular boundaries and extent; and if such property consists of an undivided share in a land it shall be so stated, and a particular description given as aforesaid of the entire land in which such share or interest is held, together with the extent of such share or interest.

Each land to have a separate certificate.

15. In all cases of transfer by sale, gift, or otherwise, each land registered shall have a separate certificate, excepting in cases wherein different allotments are treated and described as one property, and, from their situation as respects each other, can be included in one survey.

When more than one land is embraced in the same deed.

16. When several lands are mortgaged by the same deed, and those lands lie in more districts than one, it shall be lawful for the party gaining an interest or benefit thereunder to apply to the land register office in Colombo, to have the same registered therein. The stamp for the certificate of registration of such deed shall be the stamp fixed by the Schedule to this Ordinance annexed for a single registration, with an increase of one pound in value for every additional registration, in each of the other districts in which the lands are situate. The Registrar General shall as speedily as possible cause notices of registration to be dispatched to the registrar of each of such districts, containing the particulars required for the registration of the deed, so far as concerns that district; and on receipt from the registrars of such districts of information that the registration has been effected in their districts respectively, the Registrar General shall issue his certificate stating all the particulars of each registration, and the separate dates on which they shall have been effected.

Volume and folio of previous registry to be quoted.

17. When any property which shall have been once registered shall be subsequently sold, encumbered, or otherwise affected or dealt with, the deed or instrument purporting to transfer or otherwise deal with or affect such property shall state the volume and folio of the register in which such property has been previously registered as the same shall appear in the register already made of such property.

IX.—*Miscellaneous.*

Penalty for fraudulent registration.

18. Any person guilty of fraudulently registering any land or interest not belonging to him, and with intent to defraud or injure the owner thereof, or the person rightly interested therein, or any other person, shall be guilty of an offence, and be liable, on conviction to transportation for seven years, or to imprisonment, with or without hard labour, for any period not exceeding three years.

Stamp duties.

19. The Schedule to this Ordinance shall be substituted for and be in the place of Schedule M. to the Ordinance No. 8 of 1863, annexed.

This Ordinance and No. 8 of 1863 to be deemed one.

20. This Ordinance and the Ordinance No. 8 of 1863 shall be read and construed as if they formed one Ordinance.

21. Has had its effect.

SCHEDULE OF STAMPS.

	£	s.	d.
Every claim, under § 16 - - - -	0	1	0
„ certificate of title ; for every acre or part of an acre (but in no case to exceed 20*l.*), under § 30 -	0	1	0
„ certificate of incumbrance or interest, under § 31 -	0	2	0
certificate of registration, under § 42 (except in the case of a deed or act of release, surrender, or annulment), according to the value of the estate, as expressed in the deed or instrument, or in the inventory or list of appraisement; that is to say :—			
If not exceeding 10*l.* - - -	0	2	0
If exceeding £10, not exceeding £25 -	0	4	0
Do. 25, „ 50 -	0	6	0
Do. 50, „ 100 -	0	8	0
Do. 100, „ 250 -	0	10	0
Do. 250, „ 500 -	0	15	0
Do. 500, „ 1,000 -	1	0	0
and for every 1,000*l.*, or part of 1,000 -	1	0	0
„ certificate of registration of any deed or act of release, surrender, or annulment; if the value or consideration does not appear on the face thereof - - - - -	0	2	0
If the value or consideration appear on the face thereof, and the same does not exceed 500*l.* - - - - -	0	2	0
Do. do. if it exceeds 500*l.* -	0	5	0
„ certificate of registration of a deed of partition, where the value of the estate or estates conveyed does not appear in the face of the deed	0	10	0
„ deeds not otherwise charged in this schedule nor expressly exempted from registration duty -	1	0	0
„ application, copy or extract - - -	0	2	0
„ caveat - - - - - -	1	0	0

18th October 1865.

150.

No. 4 OF 1865.

An Ordinance for the better regulation of the Loan Board.

WHEREAS it is expedient to make a change in the constitution and management of the Loan Board, and to make certain unclaimed balances available for public purposes : It is enacted as follows: Preamble.

1. This Ordinance may be cited for all purposes as "The Loan Board Ordinance, 1865." Short title.

2. Has had its effect.

Loan Board.

I.—*Loan Board and Officers.*

Governor to appoint commissioners of Loan Board.

3. It shall be lawful for the Governor, subject to the pleasure of Her Majesty, her heirs and successors, from time to time as occasion may require, to appoint three or more fit and proper persons to be the commissioners of the Loan Board, and to nominate one of them to be the chief commissioner; and they shall hold office during pleasure, and exercise the duties and powers hereby conferred on them.

Governor to appoint secretary, clerks, &c.

4. It shall be lawful for the Governor from time to time to appoint such secretary, clerks, and other ministerial officers as to him may appear necessary, to assist the commissioners in the execution of the duties and powers hereby conferred on them.

Treasurer.

5. The Treasurer of the Colony shall be the treasurer of the Loan Board, provided, however, that nothing herein contained shall prevent the treasurer being appointed a commissioner in addition.

Salaries.

6. The Governor may from time to time, with the advice and consent of the Executive Council, direct to be paid out of the funds of the Colonial Treasury, to such commissioners, secretary, clerks, and officers as aforesaid such salaries or remuneration as to him shall appear reasonable.

II.—*Meetings of Loan Board.*

Meetings when to be held.

7. Meetings of the commissioners shall be held for the dispatch of business upon such day and days in every month as shall be fixed by any general rule made by such commissioners as hereinafter provided: Provided that it shall be lawful for the chief commissioner, at his own instance, or when requested thereto by any other commissioner, to convene a special meeting of the board, and two days' notice of the day appointed by him for the same shall be given by the secretary to each commissioner.

Proviso.

Chairman.

8. The Chief Commissioner shall be the chairman of such meeting. In his absence it shall be competent to the commissioners to elect one of their own body.

Majority to decide.

Quorum.

Casting vote.

9. All acts whatsoever authorized or required by virtue of this Ordinance to be done by the Loan Board may and shall be done and decided by the majority of the commissioners, such number not being less than two. When the votes of the commissioners present in regard to any question shall be equally divided, the chairman, besides his vote as a commissioner, shall have a casting vote.

III.—*Rules and Regulations.*

10. It shall be lawful for the commissioners to make such rules and regulations as they may deem expedient for any of the following purposes:

(1.) For regulating the meetings and proceedings of the commissioners.

(2.) For determining the securities upon which loans are to be made, and the charges payable by borrowers.

(3.) For determining the rates of interest on loans and deposits.
(4.) For determining the distribution of interest realised upon the loans.
(5.) For regulating the books and forms of accounts to be kept and rendered.
(6.) For providing for every other matter not herein specially provided for, but necessary for the due regulation of the board and the funds thereof.

Provided that such rules and regulations be not repugnant to or inconsistent with any of the provisions of this Ordinance, and that copies thereof with all convenient speed be transmitted to the Governor, for the approval, amendment, or disallowance thereof by the Governor and Executive Council; and the said rules so approved or amended shall thereupon become as legal, valid, and effectual as if the same had been inserted herein. Proviso.

IV.—*General Provisions.*

11. As soon as commissioners have been appointed for the purposes of this Ordinance, the management of the Loan Board and all control and superintendence over or regarding the investment, management, and administration of any of the funds heretofore and now administered by the Loan Board (to wit, the funds administered in the time of the Dutch Government by the Weeskamer and Boedelkamer, the funds formed of the deposits made by the suitors of the Supreme Court of Judicature, the funds formed of the deposits made by suitors in the different district courts in this Island, or by or on account of trustees, tutors, curators, guardians, executors, administrators, receivers, minors, insane or interdicted persons, deceased persons, insolvents' and trust estates, and all funds of whatever description which have come to the custody of the Loan Board, or are at present administered by it,) shall be vested in and be exercised by the said commissioners subject to the limitations herein prescribed, and the judges of the Supreme Court shall be relieved from any share in the general superintendence and control over the said board, and from the necessity of affixing their signatures to the accounts and other documents thereof: Provided that nothing herein contained shall be construed to limit or affect the jurisdiction of the said Supreme Court in any question that may come before it for judgment in due course of law, affecting the title to or the recovery of any money or estate, or part of such funds as aforesaid, or affecting the application thereof to the use of any suitor or other person thereto entitled. Control of Loan Board, &c., to be vested in commissioners. Proviso.

12. All monies and estate forming at present the funds hereinbefore mentioned, and which are invested by or in the name of the registrar of the Supreme Court, or lying in deposit subject to the disposal of the Loan Board, or which are vested in, due to, or in any way within the power or under the control of either of them, shall be deemed to be vested in the said commissioners of the Loan Board hereunder appointed in trust for the use of the persons wh Commissioners to be trustees.

shall be entitled to the same, and for the uses, ends, and purposes further in this Ordinance provided and declared.

Commissioners to invest suitors' fund, subject to certain rules.

13. It shall be lawful for the said commissioners from time to time to lend out at interest all such monies hereby vested in them as trustees as aforesaid, or which may have been or may hereafter be transmitted by or from or on account of the several courts and judges of this Island to the public treasury, subject to such rules and regulations regarding investment, security, change of securities, interest, conditions, and administration, as they may from time to time make as herein provided.

Commissioners to sue and be sued

14. The commissioners hereby appointed shall be entitled to sue upon all bonds, obligations, mortgages, and securities, and all contracts whatever heretofore granted to or made by the Loan Board or the registrar of the Supreme Court on behalf of the Loan Board, and to recover the same and to appear in all suits or proceedings already commenced or taken in which the Loan Board or the said registrar is interested, for and on behalf of the Loan Board; and all bonds, obligations, mortgages, and all contracts whatsoever to, by, or with the commissioners hereunder appointed, and all suits and actions by or against the said commissioners, shall be made to, by, or with them, and shall be instituted by or against them, under the name of "the Commissioners of the Loan Board," without specifying the names of the individual commissioners or any of them; and no action shall abate by reason of the death, removal, resignation, incapacity, or going out of office of any of them; and the service of all process in any suit or action against the said commissioners shall be made on the secretary.

Parate execution.

15. It shall be lawful for the commissioners of the Loan Board to sue out from any court having jurisdiction over the person or effects of any person who now owes or may hereafter owe money to the Loan Board, and who shall not repay the principal amount at the period by his obligation stipulated, in one month after demand made in writing by or in the name of the said commissioners, or shall make default in the payment of the stipulated interest due on the same for more than one month, process of parate execution against the body and effects of such person; and every such court is hereby authorized and directed on the application of the said commissioner, verified by affidavit of any commissioner swearing to the existence of the obligation and default, forthwith, and without further notice or delay, to issue such process.

Payment of one third of interest to Government.

16. The payments which have heretofore been made to the Government of Ceylon, of one third of all interest accruing from the investments made by the Loan Board, for the purpose of contributing towards the expenses of the establishment of the board, shall be continued to be made by the commissioners appointed in pursuance of the provisions of this Ordinance.

Agents to transmit monies to the Treasurer.

17. At the end of every month the Government Agent of each province in the Island shall transmit to the treasury at Colombo the balance, if any, which at the end of every such month shall be in his hands to the credit of each and every district court within his province, or if such balance be in favour of such Government

Agent in account with any of the district courts within his province, he shall then draw upon the said treasury for the amount of such balance; and all suitors and other persons entitled to the monies so transmitted to the treasury shall be entitled to the same advantages and interest, subject to the same conditions as the monies now under the administration of the Loan Board are entitled and subject to, or to which they shall become entitled and subject by any rules and regulations to be made as herein provided.

Disposal of monies long unclaimed.

18. Whereas certain monies heretofore administered by the Loan Board have been in deposit for very long periods of time, and no claims have been preferred to them, and the retention of them in the books and accounts of the Board is productive of much inconvenience, it is enacted as follows:

If unclaimed for more than a third part of a century money forfeited to the Crown.

(1.) If any money now or which may hereafter come under the administration of the Loan Board shall have been in deposit to the credit of any person or estate, and shall not have been claimed by any person having a just and lawful right thereto for the period of one-third of a century from the date of such deposit, or having been claimed, such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case every account with such person or estate shall be closed, and all such money shall, owing to the lapse of such period, become the property of the Crown, and shall be paid over by the Commissioners of the Loan Board to the Treasurer, to be carried to the account of the public revenue, but to be appropriated for such purposes cognate to or connected with the administration of justice as the Governor and Executive Council shall from time to time determine.

If unclaimed for more than 10 years and upwards, but less than a third part of a century, monies to be paid to the general revenue which is made liable for the payment of such claims.

(2.) If any money now or which may hereafter come under the administration of the Loan Board shall have been in deposit for any period less than one-third of a century to the credit of any person or estate, and shall not have been claimed by any person having just and lawful right thereto for ten years and upwards, or having been claimed such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case (after the expiration of ten years and upwards aforesaid) every account with such person or estate shall be closed; and all such money shall, owing to the lapse of time, be paid over by the Commissioners of the Loan Board to the Treasurer, to be carried to the account of the public revenue, but to be appropriated for such purposes cognate to or connected with the administration of justice as the Governor and Executive Council shall from time to time determine: Provided, however, that if any person shall within one third of a century from the date of such deposit establish a claim to any portion of the said last-mentioned monies to the satisfaction of a

competent court of justice, such claim, as well the principal money as the interest due thereon, shall be paid by the Government out of the general revenue which is hereby declared liable to meet all such claims.

Interest never to exceed principal.

19. No person entitled to receive interest on any money in deposit in the Loan Board shall be entitled to receive as interest a larger amount than the principal, in case, at the time of payment, the interest unpaid and in arrear shall exceed the principal.

Nothing herein to affect liability of board to account to courts or to execute its orders.

20. Nothing herein contained shall be deemed to affect the liability of the Loan Board to account to the different courts for the monies placed in deposit by the orders of such courts, or to conform to and comply with such orders as it has heretofore done.

18th October 1865.

151.

No. 5 of 1865

An Ordinance relating to the Fraudulent Marking of Merchandise.

Preamble.

Whereas it is expedient to make provision relating to the fraudulent marking of merchandise, and to the sale of merchandise falsely marked for the purpose of fraud: It is enacted as follows:

Construction of words.

1. In the construction of this Ordinance the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The word "person" shall include any person, whether a subject of Her Majesty or not, and any body corporate or body of the like nature, whether constituted according to the law of the United Kingdom of Great Britain and Ireland or any of Her Majesty's Colonies or Dominions, or according to the law of any foreign country, and also any company, association, or society of persons, whether the members thereof be subjects of Her Majesty or not, or some of such persons subjects of Her Majesty and some of them not, and whether such body corporate, body of the like nature, company, association, or society be established or carry on business within Her Majesty's dominions or elsewhere, or partly within Her Majesty's dominions and partly elsewhere.

The word "mark" shall include any name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, or other mark of any other description.

The expression "trade mark" shall include any and every such name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, or other mark as aforesaid, lawfully used by any person to denote any chattel, or any article of trade, manufacture, or merchandise, to be an article or thing of

the manufacture, workmanship, production, or merchandise of such person, or to be an article or thing of any peculiar or particular description made or sold by such person, and shall also include any name, signature, word, letter, number, figure, mark, or sign which in pursuance of any law for the time being in force relating to registered designs is to be put or placed upon or attached to any chattel or article during the existence or continuance of any copyright or other sole right acquired under the provisions of any law.

Forging a trade mark or falsely applying any trade mark with intent to defraud, an offence.

2. Every person who, with intent to defraud, or to enable another to defraud any person, shall forge or counterfeit, or cause or procure to be forged or counterfeited, any trade mark, or shall apply, or cause or procure to be applied, any trade mark or any forged or counterfeited trade mark to any chattel or article not being the manufacture, workmanship, production, or merchandise of any person denoted or intended to be denoted by such trade mark, or denoted or intended to be denoted by such forged or counterfeited trade mark, or not being the manufacture, workmanship, production, or merchandise of any person whose trade mark shall be so forged or counterfeited, or shall apply, or cause or procure to be applied, any trade mark or any forged or counterfeited trade mark to any chattel or article, not being the particular or peculiar description of manufacture, workmanship, production, or merchandise denoted or intended to be denoted by such trade mark or by such forged or counterfeited trade mark, shall, in addition to the punishment herein-after prescribed for such offence, also forfeit to Her Majesty every chattel and article belonging to such person to which he shall have so unlawfully applied, or caused or procured to be applied, any such trade mark or forged or counterfeited trade mark as aforesaid; and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, shall have been so applied, and every instrument in the possession or power of such person for applying any such trade mark, or forged or counterfeited trade mark as aforesaid, shall be forfeited to Her Majesty; and the court before which any such offence shall be tried may order such forfeited articles as aforesaid to be destroyed or otherwise disposed of as such court shall think fit.

Applying a forged trade mark to any vessel, case, wrapper, &c., in or with which any article is sold or intended to be sold, an offence.

3. Every person who with intent to defraud, or to enable another to defraud any person, shall apply or cause or procure to be applied any trade mark, or any forged or counterfeited trade mark, to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, on, or with which any chattel or article shall be intended to be sold, or shall be sold or uttered or exposed for sale, or intended for any purpose of trade or manufacture, or shall enclose or place any chattel or article, or cause or procure any chattel or article to be enclosed or placed, in, upon, under, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeited trade mark shall have been applied, or

shall apply or attach or cause or procure to be applied or attached to any chattel or article any case, cover, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeited trade mark shall have been applied, or shall enclose, place, or attach any chattel or article, or cause or procure any chattel or article to be enclosed, placed, or attached in, upon, under, with, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing having thereon any trade mark of any other person, shall, in addition to the punishment herein-after prescribed for such offence, also forfeit to Her Majesty every such chattel and article, and also every such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing as aforesaid in the possession or power of such person; and every other similar cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing made to be used in like manner as aforesaid, and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, shall have been applied, and also every instrument in the possession or power of such person for applying any such trade mark, or forged or counterfeit trade mark as aforesaid, shall be forfeited to Her Majesty; and the court before which any such offence shall be tried may order such forfeited articles as aforesaid to be destroyed or otherwise disposed of as such court shall think fit.

Selling articles with forged or false trade marks after 31st December 1865, penalty equal to value of article sold, and a sum not exceeding 5*l.* nor less than 10*s.*

4. Every person who, after the thirty-first day of December one thousand eight hundred and sixty-five, shall sell, utter, or expose either for sale or for any purpose of trade or manufacture, or cause or procure to be sold, uttered, or exposed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark which he shall know to be forged or counterfeited, or together with the trade mark of any other person applied or used falsely or wrongfully or without lawful authority or excuse, knowing such trade mark of another person to have been so applied or used as aforesaid, and that whether any such trade mark or forged or counterfeited trade mark as aforesaid, together with which any such chattel or article shall be sold, uttered, or exposed for sale or other purpose as aforesaid, shall be in, upon, about, or with such chattel or article, or in, upon, about, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, upon, about, or with which such chattel or article shall be so sold or uttered or exposed for sale or other purpose as aforesaid, shall for every such offence forfeit and pay to Her Majesty a sum of money equal to the value of the chattel or article so sold, uttered, offered, or exposed for sale or other purpose as aforesaid, and a further sum not exceeding five pounds and not less than ten shillings.

Additions to and alterations of trade marks made with intent to de-

5. Every addition to and every alteration of, and also every imitation of any trade mark which shall be made, applied, or used with intent to defraud, or to enable any other person to defraud, or which shall cause a trade mark with such alteration or addition,

or shall cause such imitation of a trade mark to resemble any genuine trade mark so or in such manner as to be calculated or likely to deceive, shall be and be deemed to be a false, forged, and counterfeited trade mark within the meaning of this Ordinance, and every act of making, applying, or otherwise using any such addition to or alteration of a trade mark or any such imitation of a trade mark as aforesaid done by any person with intent to defraud, or to enable any other person to defraud, shall be and be deemed to be forging and counterfeiting a trade mark within the meaning of this Ordinance.

fraud to be deemed forgeries.

6. When any person at any time after the thirty-first day of December one thousand eight hundred and sixty-five shall have sold, uttered, or exposed for sale or other purpose as aforesaid, or shall have caused or procured to be sold, uttered, or exposed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, or together with the trade mark of any other person used without lawful authority or excuse as aforesaid, and that whether any such trade mark, or such forged or counterfeited trade mark as aforesaid, be in, upon, about, or with such chattel or article, or in, upon, about, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, upon, about, or with which such chattel or article shall have been sold or exposed for sale, such person shall be bound upon demand in writing delivered to him or left for him at his last known dwelling house, or at the place of sale or exposure for sale by or on the behalf of any person whose trade mark shall have been so forged or counterfeited, or used without lawful authority or excuse as aforesaid, to give to the person requiring the same, or his attorney or agent, within forty-eight hours after such demand, full information in writing of the name and address of the person from whom he shall have purchased or obtained such chattel or article, and of the time when he obtained the same; and it shall be lawful for any police magistrate having local jurisdiction, on information on oath of such demand and refusal, to summon before him the party refusing, and on being satisfied that such demand ought to be complied with, to order such information to be given within a certain time to be appointed by him; and any such party who shall refuse or neglect to comply with such order shall for every such offence forfeit and pay to Her Majesty the sum of five pounds, and such refusal or neglect shall be *primâ facie* evidence that the person so refusing or neglecting had full knowledge that the trade mark, together with which such chattel or article was sold, uttered, or exposed for sale or other purpose as aforesaid, at the time of such selling, uttering, or exposing was a forged, counterfeited, and false trade mark, or was the trade mark of a person which had been used without lawful authority or excuse, as the case may be.

Any person who, after 31st December 1865, shall have sold an article having a false trade mark to be bound to give information where he procured it.

Power to magistrates to summon parties refusing to give information.

Penalty for refusal 5*l.*

7. Every person who, with intent to defraud or to enable another to defraud, shall put or cause or procure to be put upon any chattel or article, or upon any cask, bottle, stopper, vessel,

Marking any false indication of quantity, &c., upon an

article with intent to defraud—penalty, a sum equal to the value of the article and the further sum not exceeding 5*l* and not less than 10*s*.

case, cover, wrapper, band, reel, ticket, label, or other thing, together with which any chattel or article shall be intended to be or shall be sold or uttered or exposed for sale, or for any purpose of trade or manufacture, or upon any case, frame, or other thing in or by means of which any chattel or article shall be intended to be or shall be exposed for sale, any false description, statement, or other indication of or respecting the number, quantity, measure, or weight of such chattel or article, or any part thereof, or of the place or country in which such chattel or article shall have been made, manufactured, or produced, or shall put or cause or procure to be put upon any such chattel or article, cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or thing as aforesaid, any word, letter, figure, signature, or mark for the purpose of falsely indicating such chattel or article, or the mode of manufacturing or producing the same, or the ornamentation, shape, or configuration thereof, to be the subject of any existing patent, privilege, or copyright, shall for every such offence forfeit and pay to Her Majesty a sum of money equal to the value of the chattel or article so sold, or uttered, or exposed for sale, and a further sum not exceeding five pounds and not less than ten shillings.

Selling or exposing for sale after the 31st December 1865, articles with false statement of quantities, &c., penalty, not more than 5*l*. or less than 5*s*.

8. Every person who, after the thirty-first day of December one thousand eight hundred and sixty-five, shall sell, utter, or expose for sale or for any purpose of trade or manufacture, or shall cause or procure to be sold, uttered, or exposed for sale or other purpose as aforesaid, any chattel or article upon which shall have been, to his knowledge, put, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which such chattel or article shall be sold or uttered or exposed for sale or other purpose as aforesaid, shall have been so put, or upon any case, frame, or other thing used or employed to expose or exhibit such chattel or article for sale shall have been so put, any false description, statement, or other indication of or respecting the number, quantity, measure, or weight of such chattel or article or any part thereof, or the place or country in which such chattel or article shall have been made, manufactured, or produced, shall for every such offence forfeit and pay to Her Majesty a sum not exceeding five pounds and not less than five shillings.

Proviso that it shall not be an offence to apply names or words known to be used for indicating particular classes of manufactures.

9. Provided always, that the provisions of this Ordinance shall not be construed so as to make it any offence for any person to apply to any chattel or article, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing with which such chattel or article shall be sold or intended to be sold, any name, word, or expression generally used for indicating such chattel or article to be of some particular class or description of manufacture only, or so as to make it any offence for any person to sell, utter, or offer or expose for sale any chattel or article to which, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing sold therewith, any such generally used name, word, or expression as aforesaid shall have been applied.

10. In every indictment, pleading, proceeding, and document whatsoever in which any trade mark shall be intended to be mentioned, it shall be sufficient to mention or state the same to be a trade mark without further or otherwise describing such trade mark, or setting forth any copy or facsimile thereof; and in every indictment, pleading, proceeding, and document whatsoever in which it shall be intended to mention any forged or counterfeit trade mark, it shall be sufficient to mention or state the same to be a forged or counterfeit trade mark without further or otherwise describing such forged or counterfeit trade mark, or setting forth any copy or facsimile thereof.

Description of trade marks and forged trade marks in indictments, &c.

11. The provisions in this Ordinance contained of or concerning any act, or any proceeding, judgment, or conviction for any act hereby treated as an offence, shall not nor shall any of them take away, diminish, or prejudicially affect any suit, process, proceeding, right, or remedy which any person aggrieved by such act may be entitled to at law, or otherwise, and shall not nor shall any of them exempt or excuse any person from answering or making discovery upon examination as a witness or upon interrogatories, or otherwise, in any suit or other civil proceeding: Provided always, that no evidence, statement, or discovery which any person shall be compelled to give or make shall be admissible in evidence against such person in support of any indictment for an offence or otherwise, or of any proceeding under the provisions of this Ordinance.

Conviction not to affect any right or civil remedy.

12. In every indictment, information, conviction, pleading, and proceeding against any person for any offence against the provisions of this Ordinance, in which it shall be necessary to allege or mention an intent to defraud, or to enable another to defraud, it shall be sufficient to allege or mention that the person accused of having done any act which is hereby made an offence did such act with intent to defraud, or with intent to enable some other person to defraud, without alleging or mentioning an intent to defraud any particular person; and on the trial of any such indictment or information for any such offence, and on the hearing of any information or charge of or for any such other offence as aforesaid, and on the trial of any action against any person to recover a penalty for any such other offence as aforesaid, it shall not be necessary to prove an intent to defraud any particular person, or an intent to enable any particular person to defraud any particular person, but it shall be sufficient to prove with respect to every such offence that the person accused did the act charged with intent to defraud, or with intent to enable some other person to defraud, or with the intent that any other person might be enabled to defraud.

Intent to defraud, &c., any particular person, need not be alleged in an indictment, &c., or proved.

13. Every person who shall aid, abet, counsel, or procure the commission of any offence under this Ordinance shall also be guilty of an offence.

Persons who aid in the commission of an offence to be also guilty.

14. Every person who shall be convicted or found guilty of any offence under this Ordinance shall be liable, at the discretion of the court, and as the court shall award, to suffer punishment by imprisonment for not more than two years, with or without hard labour, or by fine, or both.

Punishment.

Limitations of actions, &c.

15. No action or proceeding for the recovery of any penalty, or procuring the conviction of any offender in manner hereinbefore provided, shall be commenced three years next after the committing of the offence.

After 31st December 1865, vendor of an article with a trade mark to be deemed to contract that the mark is genuine.

16. In every case in which at any time after the thirty-first day of December one thousand eight hundred and sixty-five, any person shall sell or contract to sell (whether by writing or not) to any other person any chattel or article with any trade mark thereon, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing together with which such chattel or article shall be sold or contracted to be sold, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vendor to or with the vendee that every trade mark upon such chattel or article, or upon any such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing as aforesaid, was genuine and true, and not forged or counterfeit, and not wrongfully used, unless the contrary shall be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

After 31st December 1865, vendor of an article with description upon it of its quantity to be deemed to contract that the description was true.

17. In every case in which at any time after the thirty-first day of December one thousand eight hundred and sixty-five, any person shall sell or contract to sell (whether by writing or not) to any other person any chattel or article upon which, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing together with which such chattel or article shall be sold or contracted to be sold, any description, statement, or other indication of or respecting the number, quantity, measure, or weight of such chattel or article, or the place or country in which such chattel or article shall have been made, manufactured, or produced, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vendor to or with the vendee that no such description, statement, or other indication was in any material respect false or untrue, unless the contrary shall be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

In actions against persons for using forged trade marks, court may order article to be destroyed, and may award injunction, &c.

18. In every action or criminal proceeding against any person for forging or counterfeiting any trade mark, or for fraudulently applying any trade mark to any chattel or article, or for selling, exposing for sale, or uttering any chattel or article with any trade mark falsely or wrongfully applied thereto, or with any forged or counterfeit trade mark applied thereto, or for preventing the repetition or continuance of any such wrongful act, or the committal of any similar act, in which judgment shall be given against the defendant, the court shall have power to direct every such chattel and article to be destroyed or otherwise disposed of; and in every such action or proceeding the court shall or may upon giving judgment against the defendant award a writ of injunction or injunctions on the defendant commanding him to forbear from committing and not by himself or otherwise to repeat or commit

any offence or wrongful act of the like nature as that of which he shall or may have been convicted by such judgment; and any disobedience of any such writ of injunction or injunctions shall be punished as a contempt of court; and in every such action or proceeding it shall be lawful for the court or the judge thereof to make such order as such court or judge shall think fit for the inspection of every or any manufacture or process carried on by the defendant in which any such forged or counterfeit trade mark, or any such trade mark as aforesaid, shall be alleged to be used or applied as aforesaid, and of every or any chattel, article, and thing in the possession or power of the defendant alleged to have thereon or in any way attached thereto any forged or counterfeit trade mark, or any trade mark falsely or wrongfully applied, and every or any instrument in the possession or power of the defendant used or intended to be or capable of being used for producing or making any forged or counterfeit trade mark, or trade mark alleged to be forged or counterfeit, or for falsely or wrongfully applying any trade mark; and any person who shall refuse or neglect to obey any such order shall be guilty of a contempt of court.

Persons aggrieved by forgeries may recover damages against the guilty parties.

19. In every case in wl 'ch any person shall do or cause to be done any of the wrongful acts following; (that is to say,) shall forge or counterfeit any trade mark; or for the purpose of sale, or for the purpose of any manufacture or trade, shall apply any forged or counterfeit trade mark to any chattel or article, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or thing in or with which any chattel or article shall be intended to be sold, or shall be sold or uttered or exposed for sale, or for any purpose of trade or manufacture; or shall inclose or place any chattel or article in, upon, under, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeit trade mark shall have been applied; or shall apply or attach to any chattel or article any case, cover, reel, wrapper, band, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeit trade mark shall have been applied; or shall inclose, place, or attach any chattel or article in, upon, under, with, or to any cask, bottle, stopper, vessel, case, cover, reel, wrapper, band, ticket, label, or other thing having thereon any trade mark of any other person; every person aggrieved by any such wrongful act shall be entitled to maintain an action for damages in respect thereof against the person who shall be guilty of having done such act or causing or procuring the same to be done, and for preventing the repetition or continuance of the wrongful act and the committal of any similar act.

Short title.

20. The expression "The Merchandise Marks Act, 1865," shall be a sufficient description of this Ordinance.

152.

No. 6 OF 1865.

An Ordinance to declare the Duties of Masters Attendant, and to provide for the better Preservation of the Ports of the Island, and for the better Regulation of the Shipping therein.

Preamble.

WHEREAS it is expedient to declare the duties in certain respects of masters attendant, and to provide for the better preservation of the ports of the Island, and for the better regulation of the shipping therein : It is enacted as follows :

Preliminary.

Short title.

1. This Ordinance may be cited for all purposes as "The Masters Attendant's Ordinance, 1865."

2. Has had its effect.

Interpretation.

3. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

The expression "master attendant" shall include his deputies and assistants.

The word "port" shall include all harbours, roadsteads, and places of anchorage in the Island.

The word "vessel" shall include anything made for the conveyance by water of human beings or of property.

The word "master," when used in relation to any vessel, shall mean and include any person having for the time being the charge or command or control of such vessel.

The word "boat" shall include canoes and cattamarans.

4. Repealing clause.

Governor to declare ports to be brought under the Ordinance, and to define their limits.

5. The Governor may from time to time, with the advice and consent of the Executive Council, declare by proclamation the ports which are to be brought within the operation of this Ordinance, and may define the limits of such ports respectively.

Port rules.

6. The Governor may from time to time, with the advice and consent of the Executive Council, frame and establish such port rules, not inconsistent with this Ordinance, as he may think necessary for any of the following purposes ; namely,

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any port subject to this Ordinance.
2. For regulating the berths and stations to be occupied by vessels in any such port.
3. For striking the yards and topmasts, and for rigging in the jib and driver booms, of vessels in any such port, whenever it may be proper so to do.
4. For the removal or proper hanging or placing of anchors, spars, and other things in or attached to vessels in any such port.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged.
6. For keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing places, wharfs, quays, docks, moorings, and other works in or adjoining to the same, and for marking out the spaces so to be kept free.
7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such port.
8. For regulating the mooring and warping of all vessels within any such port, and the use of warps therein.
9. For regulating the use of the mooring buoys, chain, and other moorings, in any such port.
10. For fixing from time to time the charges to be made for boat hire which may be demanded by boats licensed to convey goods and passengers in the said ports, the rates and charges of pilotage on vessels into and out of any of the said ports, from or to a distance of one league out at sea; or for removing or re-mooring any vessel, and the rates to be paid for the use of Government moorings, whenever the same shall be available, and the charges for work connected with mooring of the said vessels.
11. For regulating boats plying for hire in any such port.
12. For regulating the use of fires and lights within any such port.
13. For regulating and enforcing the use of signals by vessels at night in any such port.
14. For regulating all other matters necessary to provide in every respect for the preservation of the ports and the better regulation of the shipping therein, and not specially provided for by this Ordinance.

Proviso.

Provided that such port rules shall be promulgated by proclamation in the "Government Gazette" at least one month before the same shall take effect, and a copy and translations thereof in the vernacular languages of the district shall be fixed in some conspicuous place in the office of the master attendant of every port to which such order shall relate, and in the Custom House, if any, of every such port.

II.—*Masters Attendant.*

Master attendant may give directions for certain specific purposes.

7. The master attendant of any port subject to this Ordinance may, in respect of any vessel within such port, give directions for carrying into effect any port rule in force within such port.

Penalties for disobedience to orders of master attendant.

8. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of the master attendant after notice thereof shall have been given to him, such person shall for every such offence be liable to a fine not exceeding five pounds, and a further sum not exceeding five pounds for every day on which he shall wilfully continue to disobey such

direction, and in case of such refusal or neglect it shall be lawful for the master attendant to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses which shall be incurred in doing such acts shall be paid and borne by the persons so offending. Any written notice of a direction given under this Ordinance, which shall be left for the master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall for the purposes of this Ordinance be deemed to have been given to the master thereof.

Master attendant to appoint place for anchorage.

9. Whenever any vessel shall arrive within any port of this Island brought within the operation of this Ordinance, the master attendant of such port is hereby authorized and required to appoint the place where the same shall cast anchor, and to direct the master or person in charge of such vessel to anchor it at such place, or himself to cause it to be anchored there; and he shall at all times have full power and authority to board any such vessel, and to remove or cause the removal of the same from one place of mooring or anchorage to another, when he shall consider such removal expedient; and as often as the master or person in charge of any such vessel shall be desirous of moving the same from one place of mooring or anchorage to another, such master or person in charge is hereby required to notify to the master attendant such his desire, and the master attendant shall, unless he see good and sufficient reason to the contrary, authorize the removal thereof by such master or person in charge, or shall himself remove it or cause its removal; and whenever the master attendant shall consider it necessary for any of the purposes of this Ordinance to go on board of any such vessel, he shall be entitled to demand and receive a reasonable amount for boat hire. If any master or person in charge of any such vessel or any other person shall neglect or disobey any lawful direction of the master attendant, or shall offer any resistance or impediment to him or to any person acting under his orders, in the execution of any duty or authority herein imposed upon or vested in him, or shall change the mooring or anchoring of any such vessel without the authority of the master attendant, every such master or person shall be guilty of an offence, and be liable to any fine not exceeding twenty pounds.

Penalty on disobedience to or obstruction of lawful orders of masters attendant.

Master attendant may go on board any vessel in discharge of his duty.

10. The master attendant may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Ordinance, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Ordinance, go on board any vessel within the limits of any port. If the master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any master attendant or any of his deputies or assistants to enter such vessel for the performance of any duty imposed upon him by this Ordinance, he shall for every such offence be liable to a fine not exceeding twenty pounds.

11. The master attendant shall render assistance to vessels in distress within sight of the port by every means in his power.

Master attendant to give assistance to ships in distress.

12. Whenever the passage of boats to or from any vessels at anchor in any port shall become dangerous, the master attendant shall hoist a white flag with a red ball in the centre in some conspicuous place, and shall keep the same so hoisted as long as such danger shall continue; and if any master or person in charge of a vessel or other persons shall, after such signal shall have been made, prevent any boat which may be alongside of any vessel from returning ashore, every such master or person shall be guilty of an offence, and be liable to a fine not exceeding ten pounds; and the remuneration to be made in respect of any boat returning under such circumstances shall be determined by the master attendant, and shall not thereafter be questioned.

Flag to be hoisted when passage to or from ships dangerous.

13. The master attendant may remove or cause to be removed any timber or raft floating or being in any part of any such port which shall impede the free navigation of such port; or anything which shall obstruct or impede the lawful use of any pier, jetty, landing place, wharf, quay, dock, mooring or other work, or any part of the shore or bank which has been declared to be within the limits of such port, and which is not private property; and the owner of any such timber or raft, or other thing, shall be liable to pay the reasonable expenses of such removal.

Any floating timber, &c., or obstruction on shore, to be removed at expense of owner.

14. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any port subject to this Ordinance or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding ten pounds, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment, and the master attendant of the port may cause such nuisance, obstruction, or impediment to be abated and removed.

Penalties for causing obstruction or public nuisance.

15. If any vessel shall be wrecked, stranded, or sunk in any such port, so as to impede or to be likely to impede the navigation thereof, the master attendant may cause the same to be raised, removed, or destroyed; and unless the expense of such work shall be repaid within one month after the completion thereof, he shall recover the same in the manner provided by the 16th section of this Ordinance.

Master attendant may raise any wreck impeding navigation.

16. If the master attendant shall incur any expense in causing any obstruction, impediment, wreck, or nuisance to be removed, and such expense be not paid within one week after the same shall have been notified in the Gazette, or in such other manner as the Governor by any general or special order may direct, such expense certified to by the master attendant, and reported to the police court of the district, may be recovered in the same manner as any fine imposed by that court. The master attendant may, in addition to or exclusive of such remedy, cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public auction, and may retain all the expenses of such removal

Expenses of removal.

and sale out of the proceeds of such sale, and shall pay the surplus of such proceeds or deliver so much of the timber and other materials as shall remain unsold to the owner or other person entitled to receive the same, and if no such person appear shall cause the same to be kept and deposited in such manner as the Governor may direct, and may, if necessary, from time to time realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

III.—*Pilots.*

Governor may require pilotage of vessels.

17. It shall be lawful for the Governor, by proclamation, from time to time to direct that it shall be unlawful to bring to or remove from any port vessels of a certain burthen without having a pilot on board, unless authority in writing so to do has been obtained from the master attendant or some officer empowered by such master attendant to give such authority; and if any vessel shall be brought to or removed from any port contrary to the provisions of this Ordinance, the master of such vessel shall be liable to a fine not exceeding twenty pounds for every such offence.

Governor may grant licenses to pilots;

18. It shall be lawful for the Governor to grant licenses to persons duly qualified to act as pilots for any of the said ports, and every license so granted shall contain the name, age, stature, complexion, and place of abode of every such pilot, and shall further certify for what port he is duly qualified to act as pilot, and shall be on a stamp of two pounds, to be paid by the pilot.

and recall them.

The Governor may at any time recall any such license. And all such pilots shall be under the control and subject to the orders of the master attendant of the port for which he may be licensed.

Amount of outward pilotage to be paid in advance.

19. No pilot shall be in anywise bound to conduct any vessel to sea, neither shall any vessel proceed to sea, until the full amount of the outward pilotage of such vessel, and the charges due by such vessel to the master attendant's department, shall be first paid, or secured to be paid, to the satisfaction of such pilot and master attendant.

Pilot in certain cases to demand payment over and above the amount of pilotage.

20. Every pilot in charge of any vessel in, or entering, or proceeding from any port, who shall remain on board any such vessel for a period exceeding forty-eight hours, either on account of stress of weather or under quarantine, shall be entitled to demand and receive over and above the amount of pilotage charged under the regulations herein-before mentioned, the sum of eight shillings for each and every day he shall so remain on board such vessel.

Penalty on pilot for misconduct.

21. Every pilot licensed by virtue of this Ordinance who shall refuse, neglect, or delay to take charge of any vessel, when required to do so by the master attendant, unless upon good and sufficient cause to justify such refusal, neglect, or delay, and every such licensed pilot, and every person lawfully acting as a pilot in the absence of a licensed pilot under the provisions of this Ordinance, who shall quit any such vessel, or decline the piloting thereof after he has been engaged, or before the service shall have

been performed for which he was hired, or shall by drunkenness render himself incapable of conducting any vessel, or do any injury to the same, or to the tackle or furniture thereof, and every such licensed pilot who shall lend his license to any unlicensed person to assist him in acting or claiming to act as a licensed pilot, and every unlicensed person borrowing or making use of any such license for such purpose, shall, in addition to his civil liability, be guilty of an offence, and be liable to a fine not exceeding twenty pounds.

Penalty on person acting as pilot without authority.

22. It shall be lawful for any licensed pilot within the limits of his license to supersede in the charge of any vessel any person not licensed to act as a pilot, or not licensed so to act within such limits, and every person assuming or continuing in the charge or conduct of any vessel without being a duly licensed pilot, or without being duly licensed to act as a pilot within the limits in which such vessel shall actually be after any pilot duly licensed to act in this premises shall have offered to take charge of such vessel, shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds: Provided always, that, notwithstanding anything in this Ordinance contained, any person whatsoever shall and may lawfully, and without being subject to any penalty by this Ordinance imposed, assume or continue in the charge or conduct of any vessel as a pilot where and so long as a pilot duly licensed shall not have offered to take charge of such vessel, or made a signal for that purpose; or where and so long as sucn vessel shall be in distress, or under circumstances which shall have rendered it necessary for the master or person in charge of such vessel to avail himself of the best assistance which at the time could be procured.

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IV.—*Licensed Boats.*

Passenger and cargo boats to be licensed.

23. No boat of any kind shall be used for the conveyance for hire of passengers, or for landing or shipping any cargo or goods, and no person shall act as tindal thereof, unless such boat and tindal shall be licensed for that purpose, by license under the hand of the master attendant of the port, such license to be issued and recalled or taken away in case of any misconduct by the owner, tindal, or any of the boatmen thereof, at the discretion of such master attendant, or (in the case of cargo boats and their tindals) of the collector of customs; and such license shall be in force for such period as may be expressed therein, unless previous to the expiration thereof the same shall be recalled or taken away as aforesaid, and shall specify the burthen and description of the boat, and (if a passenger boat) the number of passengers that may be conveyed therein at one time, the name of the owner and the tindal thereof, and the number of boatmen to be employed in the same, and all licenses shall be registered in the offices of the master attendant at each port respectively; and such license shall be on a stamp of six shillings, to be paid by the owner of the boat and tindal respectively: Provided, however, that it shall be lawful for vessels in landing or shipping passengers or cargo or goods, to make use of their own

Proviso.

Proviso.

boats: Provided further, that where a master attendant refuses granting a license to any person applying for the same, or recalls the license after it is issued, he shall with all convenient dispatch report such refusal or recalling to the Governor, by whom the same shall and may be confirmed or reversed.

Penalty on tindals and boatmen of licensed boats for misconduct.

24. All owners of boats, tindals, and boatmen of licensed boats shall obey the orders of the master attendant of the port, and no licensed boat shall be absent from the port without his leave; and if the owner, tindal, or principal person of any licensed boat shall not so obey the said orders or shall suffer his licensed boat to be absent from the port without leave as aforesaid, or if he, on any verbal or written notice being given to him by the master attendant of the port or any officer of his department ordering such boat to proceed on board any vessel, shall refuse or neglect to comply with such order, not being manifestly prevented therefrom by stress of weather; or if he shall, when so required to proceed, have fewer seamen on board his boat than the number specified in his license, unless by permission of the master attendant, who may in such case at his discretion order a proportionate reduction of the charges payable for the hire of such boat, such owner, tindal, or principal person shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding ten pounds.

Penalty on employment of unlicensed boats.

25. If any passengers or goods be landed from or shipped to any vessel in any of the said ports, in any boats, except in boats licensed as above mentioned, or in boats belonging to such vessel, or after the expiration of the period mentioned in such license, or after the same has been recalled, or contrary to the terms thereof, the owner, tindal, or person in charge of such boat shall be guilty of an offence, and be liable to a fine not exceeding two pounds, and the said goods and the unlicensed boat in which they may have been landed or shipped shall be forfeited, and shall be dealt with in the same manner as goods declared to be forfeited or liable to forfeiture by the laws for the time being in force relating to the customs.

Where specification of description, &c., of packages necessary.

26. In landing the cargoes of vessels, each separate boat load shall be accompanied by a note, addressed to the collector of customs, specifying the number and description of the packages and the marks and numbers affixed thereon, or, if in bulk, the quantity, as far as can be ascertained, of the goods so sent: Provided that it shall be lawful for the Governor, by general or special directions to be by him for that purpose given to the collector of customs of any port, to allow any vessels or class of vessels to give boat notes in any simpler form, if it be found inexpedient to require of them the fuller form above prescribed. In default of giving a note as required by this Ordinance, or by the directions of the Governor as aforesaid, the master or supercargo shall be deemed guilty of an offence, and be liable to a fine not exceeding ten pounds.

Number of boat to be painted thereon.

27. The owner of every boat shall paint or cause to be painted, and shall keep painted in white or yellow, in English figures not less than twelve inches in length on a black ground on a conspicuous part on both sides of the bow of such boat in a legible and

distinct manner the number of such boat as mentioned in the license, and the license of such boat may be withheld until it is so marked.

28. Every licensed boat shall be kept well and completely dunnaged and seaworthy, and the master attendant shall, as often as he may think necessary, require the owners of licensed boats or any one or more of them to expose them in some convenient place for his inspection, and in case any owner shall neglect or refuse so to expose any boat belonging to him, and in case on any boat being so exposed the master attendant shall deem it unseaworthy, it shall be lawful for the master attendant to recall the license.

Licensed boat to be always kept seaworthy.

29. The owners of licensed boats shall keep and provide for service during the night, that is to say, from six o'clock in the afternoon until six o'clock in the morning, two full-sized boats with their proper crews, according to a course of rotation to be specified by the master attendant on the first day of every current month, and to be notified in writing on some conspicuous part of his office, as regards the particular nights for the attendance of particular boats; and every owner of such boat who shall fail to provide his boat properly manned, and in all respects fit for service, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds.

Owners of licensed boats to keep two boats always ready for service in the night time.

V.—*Masters of Vessels.*

30. If any master or other person shall throw overboard from any vessel any stones or ballast or rubbish, or any other thing whatever likely to form a bank or shoal or to be detrimental to navigation within any of the said ports, except in such places as may be appointed for the purpose by the master attendant, and if any stones or ballast landed from any vessel on any wharf, quay, or other landing place in any of the said ports or in any place prohibited by public notice in writing signed by the collector and master attendant of the port, be not removed, within twenty-four hours after the same shall have been landed, to the depositories appointed by the collector of customs and master attendant of the port, the master or other persons so throwing overboard or landing such stones or ballast shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding twenty pounds over and above any expenses which may be incurred in removing the same, and which expenses shall be recovered in manner provided by the 16th section.

Penalty on throwing ballast, &c., overboard.

31. Whenever any vessel shall have lost any anchor or cable in any of the said ports, the master or person in charge thereof shall immediately give notice of such loss to the master attendant, together with the bearings of such anchor or cable, and a description of any marks on them by which they could be recognized when discovered: Provided always, that it shall at all times be lawful for such master or person in charge to sweep for, and fish up, and recover such anchor or cable at his own expense.

Ship losing anchor to give notice to master attendant.

When share of value of lost anchor to be paid to master attendant or other person recovering it.

32. If any master or person in charge of a vessel in any of the said ports shall request the master attendant to recover any anchor or cable which he shall have lost at any place therein, or if information shall be given to the master attendant that any anchor or cable has been found in any of the said ports, or is known or reported to have been lost from any vessel therein, the master attendant shall use his best endeavours to recover such anchor or cable, and shall be entitled upon recovering the same to one third of the value thereof; and if the master attendant shall at any time refuse or neglect for the period of one calendar month after such request being made or such information being given to use such endeavours as aforesaid, it shall be lawful for any other person or persons, at his or their own expense, to sweep for, and fish up, and recover such anchor or cable, and such person or persons shall in like manner be entitled to one third of the value of any anchor or cable so recovered by him or them: Provided always, that if any difference of opinion shall arise between the master attendant and the master or person in charge of any such vessel, or his agents, as to the value of any such anchor or cable, the point shall be referred to the collector of customs, and his decision shall be conclusive; and if any such difference shall arise between the master or person in charge of any ship or vessel or his agents and any other party or parties recovering such anchor or cable, the same shall be referred to the master attendant, whose decision shall be conclusive.

Proviso.

Anchor not owned within twelve months to become the property of Her Majesty.

33. All anchors and cables which shall be recovered within any of the ports and by any person other than the person in charge of the vessel from which they are known to have been lost, shall be landed at the wharf or place appointed for that purpose; and if the same shall not be claimed within the period of twelve months they shall become the property of Her Majesty, and shall be sold by public auction. Two thirds from the proceeds shall go to the party or parties who recovered the said anchor and cable, and one third to Her Majesty.

Penalty on master of vessel or pilot or other person offending against this Ordinance.

34. If any master or person in charge of a vessel or any pilot or other person shall in any case fail or neglect to observe any lawful directions of the master attendant, or to do anything required of him by this Ordinance or by any port rule to be made under the authority of the sixth clause, or shall do or omit to do anything contrary to the true and plain meaning of this Ordinance, or of any such port rule, or if any master or person in charge of any vessel or any other person shall interfere with any master attendant, or any of his deputies or officers, or any person acting under his authority, in the execution of his duty in regard to such vessel, so as to resist or impede him or them in the proper performance thereof, every such master or person in charge of a vessel, or other person shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds.

Vessels not to obtain clearance until all

35. The officer of Government whose duty it shall be to grant a port clearance for any vessel shall not grant such port clearance until the owner, agent, or master of that vessel, or some other

person, shall have paid all port dues, fees, and charges to which such vessel, or the owner or master of such vessel in respect thereof, shall be liable under this or any other Ordinance.

charges are paid.

36. Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of Her Majesty, or to any vessel of war belonging to any foreign prince or state, nor affect any law relative to the customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law.

Ordinance not to extend to Government vessels or ships of war.

VI.—*Miscellaneous.*

37. If any person shall wilfully obstruct or hinder any officer in the execution of any duty imposed or power conferred by this Ordinance, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall for every such offence be liable to a fine not exceeding twenty pounds.

Penalty for obstructing officer in discharge of his duty, &c.

38. If any person shall, wilfully and without lawful excuse, lift, injure, loosen, or set adrift any buoy, beacon, or mooring fixed or laid down by or under the order of the master attendant, or attached to ship anchors, in any port subject to this Ordinance, he shall for every such offence be liable, in addition to the payment of the amount of damages done, to a fine not exceeding twenty pounds, or to be imprisoned, with or without hard labour, for a period not exceeding six months.

Penalty for injuring buoys, &c.

Special Rule.

39. In every port subject to this Ordinance, to which the provisions of this section shall be extended by an order of the Governor, no person, without the permission of the master attendant, shall remove or carry away any rock, stones, shingle, gravel, sand, or soil, or any artificial protection from any part of the bank or shore of such port; and no person shall sink, bury, drive, or in any part of such bank or shore, whether the same be public or private property, any mooring post, anchor, or any other thing which is likely to injure, or to be used so as to injure such bank or shoal, except with the permission of the said master attendant, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this section, he shall be liable to a fine not exceeding ten pounds for every such offence, and to pay the expenses of repairing the injury (if any) done to such bank or shore, such expenses being recoverable in the manner provided by the 16th section.

Removing stones, &c., or injuring shores, prohibited.

40. All offences against this Ordinance shall and they are hereby declared to be fully cognizable and punishable by police courts, and all sums becoming due by reason of any of the provisions thereof shall and they are hereby declared to be recoverable before courts of requests, though such offences and sums should exceed the ordinary jurisdiction of those courts.

Offences against this Ordinance, and debts due thereunder, to be respectively punishable and recoverable in police courts and courts of requests.

18th October 1865.

153.

No. 7 of 1865.

Ordinance for making the Age of Twenty-one Years the Legal Age of Majority in this Colony.

Preamble.

Whereas it is expedient that the same period of majority should be fixed for all persons whatever: It is enacted as follows:

Twenty-one years made the legal age of majority.

1. From and after the passing of this Ordinance, all persons when they shall attain or who have already attained the full age of twenty-one years, shall be deemed to have attained the legal age of majority, and, except as is herein-after excepted, no person shall be deemed to have attained his majority at an earlier period, any law or custom to the contrary notwithstanding.

Attainment of majority by operation of law not affected.

2. Nothing herein contained shall extend or be construed to prevent any person under the age of twenty-one years from attaining his majority at an earlier period by operation of law.

18th October 1865.

154.

No. 8 of 1865.

An Ordinance to amend the Ordinance No. 13 of 1863.

Preamble.

Whereas it is expedient to amend the Ordinance No. 13 of 1863, entitled "An Ordinance to amend in certain respects "the Law of Marriage in this Island, and to provide for the due "registration thereof;" It is enacted as follows:

When the declaration of twenty householders may be dispensed with.

1. Where the population in any district is so scattered that it is difficult to procure the declaration of at least twenty householders as required by the 5th section of the said Ordinance, it shall be lawful for the registrar to issue his certificate upon a declaration signed by the proprietor or trustee and as many of the householders as reside within a convenient distance from the building used as a place of public Christian worship, and upon such other evidence as the registrar may require to satisfy him that the building is *bonâ fide* a place of public worship.

When stamp duty on certificates of registry may be dispensed with

2. It shall be lawful for the registrar to issue on unstamped paper certificates under the 5th and 6th sections of the said Ordinance, in respect of any place of worship in which marriages were habitually solemnized before the date of the said Ordinance, or of any place of worship used as a substitution of or for any disused place of worship in which marriages had been habitually solemnized before such date as aforesaid.

Amendment of No. 13 *of* 1863.

3. In districts where it is contrary to the habits and feelings of any class of people to require their females to appear in public before wedlock, it shall be lawful for the Governor, by general or special directions to be by him in that behalf given, to empower and require the registrar of any such district to solemnize marriages where the bride belongs to such class at any hour or hours or at any place which the parties may prefer, anything in the 15th section of the said Ordinance to the contrary notwithstanding; and the Governor may, with the advice and consent of the Executive Council, prescribe a higher fee for such marriages than where the same are solemnized at the office of the registrar: Provided, however, that in every other respect the requirements of the said Ordinance and the rules therein prescribed, shall be fully complied with.

When marriages may be celebrated at other places and times than those prescribed by the Ordinance.

Proviso.

4. Any minister competent to solemnize marriages may solemnize them without the preliminaries required by the said Ordinance between persons of whom one is supposed to be on the point of death, subject, however, to the following conditions:

Death-bed marriages.

(1.) The minister solemnizing the marriage shall be subject to the penalty prescribed by the 25th section of the said Ordinance, and such marriage shall have no legal effect whatever unless such minister shall, within forty-eight hours of the solemnization thereof, forward to the nearest registrar a report of the marriage in the form and comprising the particulars set forth in the Schedule D. to the said Ordinance annexed, or to a like effect, which statement shall be signed by the minister and another credible person not being a party to the marriage, and a certificate by such minister and credible person to the effect that one of the parties, who shall be named in the said certificate, was supposed to be in a dying state at the time of the solemnization.

Minister to report such marriage.

(2.) Such marriage shall have no legal effect except that of preventing the re-marriage of either of the said parties with any other person until the same shall be acknowledged by the parties before the registrar in the manner herein prescribed: Provided that it shall be necessary for the parties, prior to such acknowledgment, to give such notice or obtain such license as is by the said Ordinance made necessary to authorize its solemnization, and the said notice and license shall be subject to such caveat or other proceeding by way of prohibition as would be legally sufficient to prevent it. The registrar is hereby authorized and required to enter the marriage so acknowledged into the marriage register book in substantially the form prescribed by the 19th section of the said Ordinance; and such marriage so acknowledged shall be good and valid to all intents and purposes whatsoever.

Limited effect of such marriage.

Proviso.

(3.) Any person who shall wilfully give a false statement or certificate, or who shall fraudulently procure a marriage to be solemnized under the provisions of the 4th section

Penalty for fraud.

of this Ordinance, or who shall fraudulently act in contravention thereof or contrary to its plain intent and meaning, shall be guilty of an offence, and be liable to a fine not exceeding fifty pounds, or to imprisonment with or without hard labour not exceeding three years.

When registrar may grant licenses.

(4.) It shall be lawful for the registrar, on the special application of the parties, supported by the affidavit of two credible persons that either of such parties is very ill and unable to leave his abode, to license the solemnization of a marriage, or the acceptance of the acknowledgment at any place other than a registered place of worship or registrar's office.

What ministers may solemnize marriages.

5. On the delivery of the certificate under the 9th section of the Ordinance No. 13 of 1863 to the minister of any registered place of worship, it shall be lawful for such or any other minister to solemnize a marriage in such building between the parties named in such certificate, anything in the 14th section of the Ordinance No. 13 of 1863 to the contrary notwithstanding.

Clandestine marriages void.

6. The 21st section of the said Ordinance No. 13 of 1863 is repealed, and it is enacted instead thereof, that if both the parties to any marriage shall knowingly and wilfully intermarry under the provisions of this Ordinance in any place other than the office of the registrar or registered place of worship (except when specially licensed thereto under the provisions of this Ordinance), or under a false name or names, or without certificate of notice duly issued, or shall knowingly and wilfully consent to acquiesce in the solemnization of a marriage by a person not being a minister or registrar for the district, the marriage of such persons shall be null and void.

Registration books and forms to be furnished free of charge.

7. The registration books and forms shall be furnished by the Government on the application of the ministers of places of worship and of registrars free of charge.

This Ordinance and 6 of 1847 and 13 of 1863 to be deemed one Ordinance.

8. This Ordinance and the Ordinances No. 6 of 1847 and No. 13 of 1863 (except the repealed sections thereof) shall be read and construed as if they formed one Ordinance.

18th October 1865.

155.

No. 9 of 1865.

An Ordinance to amend "The Stamp Ordinance, 1861."

Preamble.

Whereas it is expedient to amend in certain respects the Ordinance No. 11 of 1861, entitled "An Ordinance to consolidate and amend the Law relating to Stamp Duties:" It is therefore enacted as follows:

All transfers of immoveable property must set out the consideration or value.

1. The provisions in the 30th section of the said Ordinance contained shall apply to all cases of conveyance or transfer of immoveable property, and not to those only of sale and gift. The consideration given for the conveyance or transfer, or the

value of the land, must always be expressed, and if such consideration or value be not truly expressed and set forth, or if the true transaction between the parties be in any way concealed or misrepresented to evade the stamp duties, the grantor and the grantee shall each be liable to the penalty by that section imposed.

Provisions of certain sections of Ordinance 11 of 1861 extended to all transfers.

2. The provisions in the 31st, 32nd, 33rd, and 34th sections shall apply to all cases of conveyance or transfer of immoveable property herein referred to.

Penalty under 41st section reduced.

3. The penalty imposed by the 41st section of the said Ordinance shall be ten pounds only, and not ten pounds for every sheet or piece of paper or other material on which the instrument is written or printed, as is in the said section provided.

Bank cheques need not have the vendor's initials or date.

4. The provision in the 56th section of the said Ordinance contained shall not apply to bank cheques on which the name or initial letters of the name of the stamp vendor and the date of sale need not be impressed.

Duty on promissory notes, payable on demand.

5. The duty payable on promissory notes for the payment of any sum of money to the bearer, or to order, on demand, shall be one penny.

Policies of assurance exempt from stamp duty.

6. Whereas doubts have arisen as to the liability of policies of assurance and insurance to stamp duty, and it is expedient to remove those doubts, it is hereby declared and enacted that they are and shall be exempt from stamp duty, anything in the Ordinance No. 11 of 1861 to the contrary notwithstanding.

This Ordinance and No. 11 of 1861 to be deemed one.

7. This Ordinance and the Ordinance No. 11 of 1861 shall be read and construed as if they formed one Ordinance.

18th October 1865.

156.

No. 10 OF 1865.

An Ordinance relating to the Ceylon Railway.

Preamble.

WHEREAS it is expedient to make certain regulations relating to the railway, now under construction, for the conveyance of passengers and goods between Colombo and Kandy: It is enacted as follows:

1. Repealing clause.

Interpretation clause.

Manager of railway.

2. For the purposes of this Ordinance the expression "railway official" shall include the manager of the railway, the assistant managers, and all such officers, servants, agents, and other persons as shall be thereunto from time to time authorized in writing by the chief resident engineer or the manager of the railway.

Assistant managers, clerks, and other officers.

3. The Governor may appoint a fit and proper person to execute the duties and powers herein-after mentioned, who shall be called "the manager of the Ceylon Railway," and one or more persons, as he may deem necessary, to assist the said manager in the execution of the said duties and powers, who shall be called "assistant managers," and such clerks and other officers as to him may appear necessary; and all duties and

powers herein-after required to be performed and exercised by the manager shall and may be performed and exercised by any assistant manager.

Rules.

4. The Governor may from time to time, with the advice and consent of the Executive Council, frame and establish rules regulating the classification of goods, the goods that are to be charged for at special rates, the charges to be made for the conveyance of passengers and goods by the railway, and regarding all other matters not specially enacted by this Ordinance, and necessary to provide, in every respect, for the management and due and profitable working of the railway: Provided that the charges for the conveyance of passengers and goods at rates other than special shall in no case exceed, or be less than, the rates specified in Schedule A. hereto annexed: Provided further, that if in any detailed classifications of goods sanctioned by the Governor and Council special provision be made for any articles which are deemed exceptional, such provision shall prevail and be of force, anything in the schedule to the contrary notwithstanding.

Fares to be prepaid.

5. No person shall enter any carriage used on the railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket. Every person desirous of travelling on such railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any railway official duly authorized to examine the same, and shall deliver up such ticket upon demand to any of the railway officials duly authorized to collect tickets. Any person not producing or delivering up his ticket as aforesaid shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Passenger tickets to be given up on demand.

Fare and freight to be accepted conditionally.

6. The fare or freight paid for the conveyance of passengers or goods respectively shall be deemed to be accepted only upon condition that there be room in the train. In case there shall not be room for all the passengers or goods, those passengers who shall have obtained tickets for the longest distance shall have the preference, and those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets, and the like order shall be observed as to goods: Provided that all officers and troops of Her Majesty on duty, and all other persons travelling on the business of Government, shall be entitled to be conveyed on such railway in preference to or in priority over the public, without reference to the distance for which or the order in which they shall have received their tickets.

Penalty for fraud.

7. Any person who shall defraud or attempt to defraud the Government, by travelling or attempting to travel upon such railway without having previously paid his fare; or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare; or by continuing his journey in or upon any of the carriages beyond the place for which he shall have paid his

fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof; or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such carriage and railway premises; or who shall transfer or profit by the transfer of the return halves of day, excursion, or other tickets, or who shall in any other manner whatever attempt to evade the payment of his fare, shall be liable to a fine not exceeding five pounds for each offence.

Fine for entering carriage in motion; or riding on the steps.

8. Any passenger who shall get into or upon, or attempt to get into or upon, or shall quit or attempt to quit any carriage upon such railway while such carriage is in motion; or who shall ride or attempt to ride upon such railway on the steps or any other part of a carriage, except on those parts which are intended for the accommodation of passengers, shall be liable to a fine not exceeding two pounds for each offence.

Fine for riding on engine, tender, or luggage van.

9. Any person other than the engine man and fireman, and assistant fireman, if any, who, without the special license of the locomotive engineer, shall ride or attempt to ride upon any locomotive engine or tender upon such railway; and any person other than the guard or breaksman, who without special permission of the traffic manager shall ride or attempt to ride upon such railway in or upon any luggage van or goods waggon, or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding five pounds for each offence.

Smoking, &c., and chewing of betel prohibited.

10. If any person shall smoke or shall chew betel, bang, tobacco, opium, or other like substance, either on the premises or in or upon any of the carriages belonging to the railway, except in places or carriages which may be specially provided for the purpose, he shall be liable to a fine not exceeding two pounds for each offence; and if any person persist in infringing this regulation, after being warned to desist by any of the railway officials or passengers, such person, in addition to incurring the liability above mentioned, may be removed by any such official from any such carriage, and from the premises appertaining to the railway, and shall forfeit his fare.

Penalty for intoxication or nuisance.

11. Any person who shall be in a state of intoxication, or be insufficiently or indecently clad, or who shall commit any nuisance or act of indecency in any railway carriage, or upon any part of the premises appertaining to the railway; or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on such railway, shall be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any term not exceeding three months, or to both; and, in addition to such liability, the offender may be removed by any of the railway officials from any such carriage, and also from the premises appertaining to the railway, and shall forfeit his fare.

Penalty for entering private room or carriage.

12. If any special carriage or portion of a carriage, or any private room or apartment, shall be provided for the exclusive use of females, any male person who, without lawful excuse, shall enter such carriage or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or shall remain therein after having been informed of its

exclusive appropriation, or if any passenger of one class shall knowingly and wilfully refuse or neglect to leave rooms or places set apart for passengers of higher classes, shall be liable to a fine not exceeding ten pounds, and may be removed therefrom, and also from the premises appertaining to the railway, by any of the railway officials, and shall forfeit his fare.

Liability for goods lost, destroyed, or injured.

13. The Government shall in no case be liable for loss or injury to any articles or goods to be carried by the railway, unless such loss or injury shall have been caused by negligence or misconduct on the part of their agents or servants, and unless the articles or goods in respect of which compensation is claimed shall have been booked and paid for in conformity with this Ordinance or the rules and regulations in that behalf provided.

Remedy for non-payment of the carriage of goods.

14. If any person shall fail to pay on demand any sum due for the conveyance of any goods, it shall be lawful for the railway manager to detain all or any part of such goods, or, if the same shall have been removed from the premises appertaining to the railway, any other goods of such person which shall then be on their premises, or shall thereafter come into their possession ; and also, after reasonable notice to such person, to sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale, and out of the proceeds of the sale to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold, to the person entitled thereto ; or the manager of the railway may recover any such sum by action at law. The goods of passengers may also be detained, sold, and the proceeds disposed of as above provided for non-payment of the fare due by them.

Remedy for non-payment of freight and fare.

Written account of goods to be given on demand.

15. The owner or person having the care of any goods which shall have been carried upon any such railway, or shall be brought on to the premises appertaining to any such railway for the purpose of being carried on the railway, shall, on demand by any railway official appointed to receive goods to be carried on that part of the railway on which such goods shall have been carried, or shall be about to be carried, deliver to such officer an exact account in writing, signed by him, of the number or quantity and description of such goods. This provision shall not apply to passengers' luggage.

Penalty for giving no account, or false account.

16. If any such owner or person as aforesaid shall on demand by any such railway official as aforesaid fail to give such account to such railway official, or if he shall wilfully give a false account thereof, he shall for every such offence be liable to a fine not exceeding five pounds for every ton of goods, and to a fine not exceeding two pounds for any quantity of goods less than a ton.

Carriage of goods of a dangerous nature.

17. No person shall carry upon any such railway any dangerous article, or be entitled to require any railway official to carry upon such railway any article which, in the judgment of any of the railway officials, shall be of a dangerous nature or so bulky that it would be unsafe for the railway to convey the same ; and if any person shall carry upon such railway any dangerous article, or shall

deliver to such railway official any such article for the purpose of being carried upon such railway, without distinctly marking their nature on the outside of the package containing the same, and likewise giving notice in writing of the nature thereof to the book-keeper or other railway official to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding twenty pounds for every such offence ; and it shall be lawful for the railway officials to refuse to carry any luggage or parcel that they may suspect to contain articles of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same ; and in case any such luggage or parcel shall be received by the railway officials for the purpose of being carried on the railway, it shall be lawful for any railway official to stop the transit thereof until he shall be satisfied as to the nature of the contents of the luggage or parcel.

Persons afflicted with small-pox, &c., not allowed to travel.

18. No person afflicted with small-pox or other contagious disease will be permitted to travel by railway, and if any person whilst travelling be discovered to be so afflicted, it shall be lawful for any railway official to remove him from the carriage and from the railway premises at the first opportunity.

Penalty for obstructing servant in his duty.

19. Any person who shall willfully obstruct or impede any railway official or his servants or agents in the discharge of their duty on such railway, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding five pounds.

Penalty for removing stakes, or pegs, or defacing marks.

20. Any person who shall remove any stakes, or pegs, or other marks placed by any railway official or by any surveyor or his servants or agents along the line of railway from Colombo to Kandy, or any other line which may be hereafter undertaken with the sanction of the Government, or contiguous thereto, for the purpose of setting out, tracing, or showing such line, shall be liable to a fine not exceeding five pounds.

Penalty for trespass.

21. Any person who shall trespass upon any railway, or upon any of the lands, stations, or other premises appertaining to the railway, shall be liable to a fine not exceeding two pounds ; and if any such person shall refuse to leave such railway or premises on being requested to do so by any railway official, or by any other person on his behalf, he shall be liable to a fine not exceeding five pounds, and may be immediately removed from such railway or premises by such officer or other person as aforesaid.

Penalty for driving an animal upon or across the railway.

22. Any person who shall wilfully ride, lead, or drive upon or across any such railway any animal, except in directly crossing the said railway at any road or place appointed for that purpose at a time at which he shall be lawfully authorized so to do, shall be liable to a fine not exceeding five pounds for each offence.

Precaution if railway crosses road.

23. If the railway cross any public carriage road (not defined to be an occupation crossing as herein-after provided) on a level, the manager of the railway shall, when the line is open for traffic, cause to be erected and maintained good and efficient gates, either across the railway or across the road on each side of the railway where the same shall communicate with the road, and shall employ proper persons to open and shut such gates. If such gates be

across the road they shall be kept constantly closed, except during the time when horses, cattle, carts, or carriages, passing along the same, shall have to cross the railway; and the gate shall be of such dimensions and so constructed as, when closed, to fence in the railway, and prevent persons, cattle, or horses passing along the road from entering upon the railway. If the gates be across the railway they shall be kept closed, except when engines or carriages passing along the railway shall have occasion to cross the road, and shall be of such dimensions, and so constructed, as when open to fence in the railway, and prevent persons, cattle, or carriages from entering upon the railway: Provided that it shall be lawful for the Government in any case to order that the gate shall be across the road or across the railway, as the Government may think fit, and in such case the gates shall be erected, maintained, and closed accordingly. If the manager of the railway shall wilfully fail to comply with the provisions of this section, he shall be liable to a fine not exceeding twenty pounds for each offence; and any magistrate or justice of the peace may, in case any such gates be not erected or maintained, order the manager to cause the same to be erected and maintained within a time to be specified in the order; and in case of wilful failure on his part to comply with such order he shall be liable to a fine not exceeding twenty pounds for every day that he shall wilfully fail so to do.

Proviso.

Occupation crossings.

24. It shall be lawful for the Governor from time to time to declare by proclamation any road or path which the railway may cross to be an "occupation crossing," and such proclamation to alter, vary, or repeal. The gates of occupation crossings are not to close across the railway, and are to be kept locked by means of padlocks, the keys of which shall be kept by railway officials authorized thereto by the manager. Any person desiring to use the same must give such notice of his intention to do so, as the Governor shall from time to time require, to the station master of the nearest station, or such other person as the manager of the railway may from time to time appoint to allow of arrangements being made for the opening of the gates with safety to the public. The manager of the railway will define from time to time the hours suitable for such openings, and the gates can only be opened at the hours so defined by him. Cattle passing over the occupation crossings must not be driven, but led by a suitable and properly secured halter. Any person using or attempting to use an occupation crossing without such notice as aforesaid, or at hours other than those defined as aforesaid, and any person causing cattle to cross without the halter as aforesaid, and the owner of any cattle so crossing, shall be guilty of an offence, and be liable to a fine not exceeding five pounds or to imprisonment, with or without hard labour, not exceeding three months.

Railway to be fenced; penalty for not fencing.

25. The manager of the railway shall, when the line is open for traffic, be bound to cause to be erected and maintained good and sufficient fences on each side of the railway, or failing therein shall be liable to a fine not exceeding five pounds for every offence; and it shall be lawful for a magistrate or justice of the peace to order the manager to cause to be erected or repaired any

such fence within a time to be specified in the order, and upon his failure to comply with such order he shall be liable to a fine not exceeding five pounds for every day that he fails so to do.

Liability of owner of animal trespassing.

26. The owner of any animal which shall trespass or stray upon the railway, or upon any lands appertaining to such railway, shall be liable to a fine not exceeding one pound for each animal; and it shall be lawful for any railway official, or his servants or agents, to take or drive every animal which shall be found so trespassing to the nearest police station, there to be detained until the highest amount of fine incurred by such trespass, and the expense of feeding and keeping the animal, be paid, or until a police magistrate shall otherwise order. A police magistrate may, upon proof of the trespass, cause such animal to be sold by public auction, and the proceeds of the sale, after deducting therefrom such fine or such a sum, not exceeding one pound for each animal, as the magistrate shall award, to be paid in lieu of the fine to which the owner is hereby made liable, and such further sum as the magistrate shall order to be paid for the expenses of detaining, feeding, and selling such animal, shall be returned to the owner of the animal on demand.

Penalty for injury to carriage, &c.

27. Any person who shall unlawfully and wilfully remove or deface the number plates, or remove or extinguish any lamp on any carriage belonging to any such railway, or shall wilfully imitate any railway signal, or shall wilfully or negligently damage or injure any carriage, engine, waggon, truck, warehouse, building, machine, fence, or any other matter or thing belonging to such railway, shall be liable to a fine not exceeding twenty pounds.

Penalty for opening or not properly shutting gates.

28. If any person for whose use or accommodation any gate shall have been set up by any railway official on either side of such railway, or any other person shall open such gate, or pass or attempt to pass, or drive or attempt to drive, any cattle, carriage, or other animal or thing across the said railway, at a time when any engine or train approaching along the same shall be in sight; or shall at any time omit to shut and fasten such gate as soon as he and any cattle, carriage, or other animal or thing under his charge shall have passed through the same, he shall be liable to a fine not exceeding ten pounds.

Obstructing engine or carriages, or endangering safety of passengers.

29. If any person shall wilfully and maliciously put, place, cast, or throw upon or across the railway any wood, stone, or matter, or thing, or shall wilfully and maliciously take up, remove, or displace any rail, sleeper, or matter, or thing belonging to the railway, or shall wilfully and maliciously turn, move, or divert any points or other machinery belonging to the railway, or shall wilfully and maliciously make or show, hide, or remove any signal or light upon or near the railway, or shall wilfully or maliciously do or cause to be done any other matter or thing with intent in any of the cases aforesaid to upset, obstruct, overthrow, injure, or destroy any engine, tender, carriage, or truck used upon the railway, or to endanger the safety of any persons travelling or being upon the railway, or cast, throw, or cause to fall or strike against, into, or upon any engine, tender, carriage, or truck used upon the railway any wood, stone, or other matter or thing, with intent to endanger the safety

of any person being in or upon such engine, tender, carriage, or truck, every such offender shall be guilty of an offence, and being convicted thereof shall be liable at the discretion of the court to corporal punishment not exceeding fifty lashes, or fine not exceeding one hundred pounds, or imprisonment with or without hard labour for any period not exceeding five years, or transportation for the term of his natural life or for any term not less than seven years, or to any two or more of these punishments.

Penalty for wilful act or omission endangering a passenger.

30. Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause, the safety of any person travelling or being upon any such railway to be endangered, shall be liable to corporal punishment not exceeding twenty lashes, or fine not exceeding twenty pounds, or to imprisonment with or without hard labour for any period not exceeding three years, or to transportation for any term not exceeding seven years, or to any two or more of those punishments.

Penalty for wilful act or omission in a railway official.

31. If any railway official or servant or agent of such official shall wilfully do any act which he is legally prohibited from doing, or shall wilfully or negligently omit to do what he is legally bound to do, and if, in consequence of such act or omission, the safety of any person travelling or being upon such railway shall be endangered, such official or servant or agent shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years, or to fine not exceeding one hundred pounds, or to both.

Penalty for drunkenness or breach of duty by railway official.

32. Any railway official who shall be in a state of intoxication whilst actually employed upon the railway, or any of the works connected therewith, in the discharge of any duty, and any railway official who negligently shall omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding five pounds; and if the duty in any of the cases in this section above mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such railway, such official shall, on conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine not exceeding twenty pounds, or to both.

Penalty for an act not wilful.

33. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger his own safety or that of any person travelling or being upon such railway, he shall, upon conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or to fine not exceeding ten pounds, or to both.

Breach of rules.

34. If any person shall wilfully do any act or wilfully omit to do any act, contrary to the provisions of the rules sanctioned by the Governor and Council as already provided, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding two pounds.

Penalty for false certificates.

35. Every person who shall give a false or untrue certificate as to coolies forming gangs, with intent to defraud or to entitle them

to the low rate of fare allowed to gangs of coolies by the Schedule A., shall be guilty of an offence, and be liable on conviction to a fine not exceeding ten pounds.

Apprehension of offenders.

36. Every person who shall be guilty of any offence mentioned in this Ordinance may be lawfully apprehended, without any warrant or written authority, by any railway official or by any other person whom such railway official shall call to his aid, or by any police officer; and every person so apprehended shall with all convenient despatch be carried and conveyed before a magistrate or a justice of the peace or other officer lawfully authorized to punish the offender or commit him for trial.

Rules for the construction of the Ordinance.

37. In the construction of this Ordinance every railway official shall be deemed to be legally bound to do everything necessary for, or conducive to, the safety of the public, which he shall be required to do by this Ordinance or by any rule or regulation which shall be made by the Government, and of which rule or regulation such official shall have notice; and every such official shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such rule or regulation he shall be prohibited from doing; and every person employed by or on behalf of such railway to do any act upon the railway shall be deemed to be an official of the railway.

Jurisdiction of magistrate.

38. For the purposes of this Ordinance the police magistrates of Colombo and Kandy shall respectively have jurisdiction over all offences, acts, matters, and things hereby made cognizable by police courts, although such magistrates may otherwise have no jurisdiction in the place where the offence was committed, or where the act, matter, or thing took place.

Case may be tried before police courts, though otherwise out of their jurisdiction.

39. And whereas the punishments assigned to certain offences under this Ordinance are beyond the jurisdiction of police courts, but it would be frequently more advantageous that such offences should be brought for trial before such courts in order that the punishment of offenders may be more prompt, even though it should be less severe: It is therefore enacted, that in case of any person committing an offence under this Ordinance, and which offence would not otherwise be cognizable by a police court by reason of the punishment to which the same is subject, a certificate shall be presented to any police court, signed by the Queen's Advocate, or by some competent Deputy Queen's Advocate, to the effect that such officer is content that such offence or act shall be prosecuted before such court, it shall be competent to such court to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as police courts are empowered by law to award.

Punishment of children for breach of Ordinance.

40. And whereas many of the offences declared punishable by this Ordinance may be committed by children whom it would not be expedient to punish in manner herein provided: It is therefore enacted, that it shall be competent to any police magistrate before whom any child shall be convicted of any offence, to order the moderate chastisement of such child instead of subjecting him to the other punishment prescribed by this Ordinance, and such

chastisement shall be inflicted immediately if the magistrate shall so direct.

Enforcing payment of fare by passenger not producing ticket.

41. The payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under section 5 of this Ordinance, may be enforced in the same manner as any fine imposed by this Ordinance.

A copy and translation of Acts to be shown at railway stations.

42. A copy of this Ordinance and of the rules and regulations, time tables, and tariff of charges, which shall from time to time be duly made and published, shall be exhibited in some conspicuous place at each station of the railway, so that they may be easily seen and read; and all such documents shall be so exhibited in English and in the vernacular languages of the district in which the station is situate, and in such other language, if any, as shall be required by order of the Government.

Penalty for removing documents or notices.

43. Any person who shall remove, deface, or in any way injure any document exhibited by the railway authorities in pursuance aforesaid, or any notice or document posted by them at the station or anywhere along the line, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment with or without hard labour for three months.

Rebate to be granted on freight.

44. It shall be lawful for the Governor, with the advice and consent of the Executive Council, to grant to any company or person conveying by railway goods the freight on which shall exceed an average amount, to be fixed from time to time by the Governor and Council, such rebate as to them shall appear reasonable.

Ordinance and rules not to affect contract.

45. Nothing in this Ordinance contained, nor any rules, regulations, or byelaws which shall or may be made in pursuance of this Ordinance, shall affect or be construed as affecting in any manner whatsoever the contract confirmed and ratified by the Ordinance No. 1 of 1863, or the rights and obligations thereunder of the parties thereto respectively.

46. Has had its effect.

SCHEDULE A.

RATE OF RAILWAY FARES.

Passengers.

1st Class,	from	3	pence	to 4	pence	per mile.
2nd	„	„	1½	„ to 2	„	„
3rd	„	„	¾	„ to 1	„	„

Detachments of pioneers or gangs of coolies of not less than six in number, each coolie one farthing per mile: Provided that no detachment or gang shall be conveyed at the rate aforesaid unless upon the production of a certificate from the importer of such coolies, or from the manager of the estate or work from or to

which they are going, that such pioneers or coolies have been employed or are about to be employed on the said estate or work. Children of pioneers or coolies in gangs to be charged as adults. The minimum fare of pioneers and coolies gangs shall be ninepence each.

Reductions to be made for children, and for return or periodical tickets. The right of reduction in the case of children must be determinable either by age or height, as shall from time to time be provided for by the rules.

Goods.

1st Class,	from	4	pence	to 7	pence	per ton	per mile.
2nd	„	„ 3	„	to 5	„	„	„
3rd	„	„ 1	„	to 3	„	„	„

Special rates to be charged for live stock, corpses, specie, plate, carriages, firearms, machinery, or articles exceeding three tons in weight, or measuring more than 200 cubic feet or 20 feet in length, and gunpowder, vitriol, lucifer matches, and other articles which in the judgment of any of the railway officials, may be of a dangerous nature.

No package less than 56 lbs. in weight to be charged as goods.

Single and separate parcels under 56 lbs. in weight to be charged parcel rates.

Articles not herein enumerated to be charged according to any of the above classes or at special rates, according to the provisions to be made from time to time in the rules and regulations.

As respects goods, the fractional part of half a hundredweight shall be reckoned as half a hundredweight.

The minimum distance on which a mileage charge shall be made is ten miles.

Special trains or reserved accommodation shall be charged for at special rates.

Goods of the third class in quantities less than four tons to be charged at second-class rates, or as four tons.

The minimum charge for a single consignment of goods (*i.e.*) exceeding 56 lbs. in weight, shall be two shillings.

Demurrage, insurance on valuable articles, warehouse, loading, and like charges, shall be made in addition to the above rates, which apply only to the carriage of goods.

As respects goods and passengers, the fractional part of a penny will be charged as a penny, and the fractional part of a mile will be charged as a mile.

Definitions of Classes.

Class 1. Furniture, pianos, or other musical instruments, wine or other liquors in bottle, groceries, oilman's stores, millinery, textile fabrics, glassware, crockery, meat, fish, and game.

Class 2. Coffee, rice, grain of all kinds in bags or packages or in bulk, oil, wine, or other liquid in cask, jute, horns, jaggery, sugar, cocoa-nuts, tobacco, cinnamon, vegetable and agricultural produce generally, refined salt and saltpetre, bales of cotton cordage, machinery not included in special rates, manufactured metals, coir matting, castings, soap, hardware, tools, and agricultural implements.

Class 3. Coke, coal, minerals, building materials, unworked metals, manure, and firewood.

18th October 1865.

157.

No. 11 of 1865.

An Ordinance to consolidate and amend the Law relating to Servants, Labourers, and Journeymen Artificers, under Contracts for Hire and Service.

Preamble.

Whereas it is expedient to amend and consolidate the law relating to servants, labourers, and journeymen artificers, under contracts for hire and service: It is enacted as follows:

Interpretation.

1. The word "servant" shall, unless otherwise expressly qualified, extend to and include menial, domestic, and other like servants, pioneers, kanganies, and other labourers, whether employed in agricultural, road, railway, or other like work.

2. Repealing clause.

Verbal contract of service to be a contract of service for one month.

3. Every verbal contract for the hire of any servant, except for work usually performed by the day, or by the job, or by the journey, shall (unless otherwise expressly stipulated, and notwithstanding that the wages under such contract shall be payable at a daily rate), be deemed and taken in law to be a contract for hire and service for the period of one month, and to be renewable from month to month, and shall be deemed and taken in law to be so renewed, unless one month's previous notice or warning be given by either party to the other of his intention to determine the same at the expiry of a month from the day of giving such notice.

Wages when payable.

4. The wages of such servant shall be payable monthly, except where the service shall have been determined by notice on a day other than the last day of the month, in which case the wages for the broken period shall be payable to the day the service is so determined, and such wages, where the same shall not be payable at a monthly rate, shall be computed according to the number of days on which such servant shall have been able and willing to work; or, if payable at a monthly rate, shall be in proportion to the number of days on which he shall have been so able and willing as aforesaid. Any employer shall be entitled to discharge any such servant from his service under any such contract, without

previous notice, provided such servant be instantly paid his wages for the time he has served, and also for one month from the time of such discharge: Provided always, that any such contract may at any time be determined by the misconduct of either party in their relative capacity of master and servant, which may be proved by either party against the other. Proviso.

5. Every verbal contract for the hire, according to time, of any journeyman artificer (where no special contract or agreement shall have been made and duly proved) shall be deemed and taken in law to be a contract for the hire of such artificer for one day, and no longer. Term of verbal contract for journeyman artificer.

6. Provided always, that nothing in the preceding clauses of this Ordinance shall be construed to prevent any servant or journeyman artificer, who may continue in the service of his employer beyond the period for which any verbal contract entered into by him is respectively declared binding only in law, as aforesaid, from recovering his wages according to the full period of time of his being in such service; nor to prevent any similar subsequent verbal contract being respectively implied in law from the continuance of such service or otherwise. Proviso, if service be continued after the time agreed upon.

7. No contract entered into in this Island for the hire and service of any servant or journeyman artificer for any period of time longer than one month shall be valid in law, so as to subject any party thereto to the provisions of this Ordinance for not performing the same, unless such contract shall be in writing, and shall clearly express the terms and conditions thereof, and shall be signed or acknowledged by the parties thereto in the presence of a police magistrate, or a justice of the peace, or other person expressly authorized by the Governor, such justice or other person not being himself the employer of such servant, or journeyman artificer, or the agent of such employer. And it shall be the duty of such police magistrate, justice of the peace, or other authorized person to see that the contract is fully explained to the parties, and to certify on the contract that they fully understand the terms thereof, and are desirous to fulfil the same. And such contract, when produced in evidence, and bearing the certificate of the police magistrate, justice of the peace, or duly authorized person as aforesaid, shall be *primâ facie* evidence of the matters and things contained therein. And every such contract shall be executed in triplicate; and it shall be the duty of such police magistrate, or justice of the peace, or other authorized person as aforesaid, to give or to cause to be given one copy thereof to the servant, and to send or to cause to be sent, within ten days of the execution thereof, another copy thereof to the police magistrate of the district wherein such contract shall have been executed, and in default thereof such magistrate or justice shall be liable to a penalty of five pounds. And the said police magistrate is hereby required to preserve the said counterpart, and to allow any person who may be interested in the said contract to inspect the same: Provided always, that no contract (excepting contracts made under the 8th section of this Ordinance) for the hire and service of any servant or journeyman artificer (whether made in Ceylon or in India, as provided by the Written contracts with servants and journeymen artificers for terms of service exceeding one month, but not exceeding three years. Proviso.

9th section) shall be valid under the provisions of this Ordinance if made for a longer period of hire or service than three years.

Contracts for the hire of pioneers, &c., to be employed in the service of Government.

Proviso.

8. It shall be lawful for the Civil Engineer, the Commissioner of Roads, the Surveyor General, or any other person expressly authorized thereunto by the Governor, to enter into any contract on behalf of Her Majesty, for the hire and service of any person to be employed as a servant or artificer for any period not exceeding five years: Provided that such contract, if made for a period of hire or service exceeding one month, shall (if entered into in this Island) be in writing, and shall be executed in the same manner and be subject to the same rules as are prescribed in the preceding section as respects contracts in the case of persons to be employed in service other than that of the Government.

Contracts entered into in India for hire and service in this Island.

Proviso.

9. Every contract entered into in India for the hire and service in this Island of any servant or journeyman artificer, shall be valid and binding, so as to subject the parties thereto to the provisions of this Ordinance, notwithstanding that the same be not executed in the manner prescribed by the 7th and 8th sections of this Ordinance: Provided that such contract be in writing, and signed or acknowledged by the parties thereto or their agents respectively, and clearly express the terms and conditions thereof; and provided also that such contract be valid and binding according to the laws of India in force at the time of the entering into such contract; and every such contract as aforesaid when produced in any court of this Island shall be deemed valid and binding according to such laws as aforesaid, unless the contrary be proved. It shall be the duty of such employer or his agent with whom any such contract shall be entered into to give, at the time of entering into such contract, a copy thereof to the servant or journeyman artificer with whom such contract shall have been entered into.

Written contracts how determinable.

Proviso.

10. Unless provision to the contrary be expressly made therein, no contract entered into and required to be in writing under the provisions of this Ordinance shall be determinable before the expiration of the period specified therein, except by the mutual consent of the contracting parties, expressed in writing, signed or acknowledged by them in the presence of two witnesses, or except when the party contracting to be employed shall have been convicted of an offence, or have become a prisoner, or permanently disabled from completing his contract, and his employer shall elect to determine the contract, or except for some reason sufficient in law to set it aside: Provided that, in case of such disability to serve, the employer shall be bound to furnish the immigrant from India who shall have contracted in India for any period of service in this Island, or who shall have contracted in this Island for any period of service not less than one year, with adequate means of returning to his own country.

Servant refusing to work, &c., is guilty of misconduct.

11. Any servant or journeyman artificer who, without reasonable cause, shall neglect or refuse to attend at and during the time and hours, or at the place when and where he shall have contracted to attend, in commencing or carrying on any work, or, in case of no special agreement in that behalf, during such hours as, according to the trade or occupation of such servant or artificer, it shall

be usual so to attend, or who, without reasonable cause, shall leave unfinished or refuse to finish any work contracted to be done, or who shall be guilty of any drunkenness, wilful disobedience of orders, insolence, or gross neglect of duty, or other misconduct in the service of his employer, or who shall quit the service of such employer without leave or reasonable cause, before the end of his term of service or previous warning as required by the third clause of this Ordinance, or for such longer period as may be specially stipulated in his contract, shall be punishable by the police court of the district wherein such offence shall have been committed, or wherein the offender shall have been apprehended, by forfeiture of all wages then due, if not exceeding the wages of one month, or for the period of warning specially stipulated for, or by imprisonment with or without hard labour not exceeding three months, or by such forfeiture together with such imprisonment, at the discretion of the court.

Punishment for desertion, &c., of servant engaged to go upon a journey.

12. Every servant who, having engaged to go on any journey, shall, without any just cause, desert, or refuse, or neglect to proceed on such journey or any stage thereof, or shall be guilty of any misbehaviour mentioned in the 11th clause of this Ordinance, shall be punishable by the police court of the district wherein such offence shall have been committed, or wherein the offender shall have been apprehended, by forfeiture of all wages then advanced or contracted for, or by imprisonment with or without hard labour not exceeding three months, or by such forfeiture together with such imprisonment, at the discretion of the said court: Provided always, that no servant engaged for a journey shall be obliged to travel on foot more than twenty-five miles during every twenty-four hours; nor shall any coolie engaged for a journey be obliged to carry a greater weight than forty pounds, unless otherwise expressly agreed upon for a short distance only, nor to proceed in case of any actual illness or bodily injury rendering him incapable to travel the journey, or any stage thereof; and any person obliging any servant or coolie so engaged as aforesaid to act contrary to the regulations contained in this proviso, shall be punishable by such police court as aforesaid by a fine not exceeding five pounds, or by imprisonment, with or without hard labour, not exceeding three months, or by such fine together with such imprisonment, at the discretion of the said court.

Proviso as to distance to be travelled, and weight carried by such servant.

Court may make abatement of wages or damages in case of misconduct.

13. Upon any complaint by any servant or journeyman artificer for nonpayment of wages, or damages for breach of contract or misconduct by his employer, before a court having jurisdiction in that behalf, it shall be lawful for such court, at its discretion, to make a proportional abatement out of any sum to be awarded as the wages or damages due to any such servant or artificer, for such days or time as he shall have been proved to have been, without the consent of his employer, absent from or neglecting his service or work, and also for the value of any breakages or damage done to any of the property of his employer by or through the misconduct or gross negligence or carelessness of such servant or journeyman artificer.

Penalty on employer refusing without cause to act up to contract.

14. In case any employer, not having reasonable cause of complaint, shall refuse payment of wages when due, or not having given such notice or made such payment as required by the 3rd and 4th sections of this Ordinance, shall refuse to continue full payment to any servant or journeyman artificer during the whole term of any contract entered into between them, every such employer so refusing shall, in addition to payment of all wages actually due, or of all that would have become due if the contract had been properly observed, or both, as the case may be, be liable to a fine not exceeding five pounds, or to imprisonment not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

Persons giving false character.

15. If any person shall knowingly and wilfully pretend or falsely assert in writing that any servant or journeyman artificer has been hired or retained in his service or employment, or in the service or employment of any other person or persons for any period of time whatsoever, or in any station or capacity whatsoever, other than that for which such servant or artificer shall have been so employed, hired, or retained; or if any person shall otherwise knowingly and wilfully write, sign, or give any untrue, false, forged, or counterfeit certificate or writing in favour of the character of such servant or artificer, then in every such case such person or persons so offending shall be liable to a fine not exceeding ten pounds, or to imprisonment, with or without hard labour, not exceeding twelve months, or to such fine together with such imprisonment, at the discretion of the court.

Servant, &c., making false statement of former employment or altering character.

16. If any person shall offer himself as a servant or journeyman artificer, asserting or pretending that he hath served in any service or employment in which such servant shall not actually have served, or with a false, forged, or counterfeit certificate of his character, or shall in anywise add to or alter, efface, or erase any word, date, matter, or thing contained or referred to in any certificate given to him by his last or any former actual employer, or by any other person or persons duly authorized by such employer to give the same, then in any of the said cases such person or persons so offending shall be liable, on conviction, to a fine not exceeding three pounds, or to imprisonment, with or without hard labour, not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

Servant, &c., denying former employment.

17. If any person, having been before in service or employment as a servant or artificer, shall, when offering to hire himself in any employment, capacity, or service, falsely and wilfully pretend not to have been hired or retained in any such previous employment, capacity, or service, then and in such case every such person so offending shall be liable, on conviction, to a fine not exceeding three pounds, or to imprisonment, with or without hard labour, not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

Wages, &c., made a first charge on estate.

18. All wages due on any contract of hire and service, and all liabilities arising therefrom, as respects the employer, shall be a first charge against the estate or property in which the servant or artificer under such contract shall have been employed, and shall

be recoverable by suit against the party for the time being in possession of the said estate or property: Provided that such charge shall be limited to three months' wages only, and shall be enforced within three months after the termination of the service for which such wages are due; and provided also, that claims for wages may be enforced before a court of requests, having in other respects jurisdiction in that behalf, although the amount in suit may exceed the sum of ten pounds.

Penalty for seducing servants, or employing them when bound to others, or harbouring or concealing them.

19. Any person who shall wilfully and knowingly seduce or attempt to seduce from his service or employment any servant or journeyman artificer, bound by any contract to serve any other person or persons, or who shall wilfully and knowingly take any servant or journeyman artificer while so bound into his service or employment, or who shall wilfully and knowingly harbour or conceal any servant or journeyman artificer who shall have absented himself without leave from the service of such other person to whom he is so bound, or who shall wilfully and knowingly retain in his service any servant or journeyman artificer bound under any contract to serve any other person after receiving notice in writing that such servant or journeyman artificer is so bound as aforesaid, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds in respect of each of the servants or journeymen artificers whom he shall have so seduced, taken, or harboured, or concealed, or retained as aforesaid, and to imprisonment, with or without hard labour, for any period not exceeding three months, if the court shall see fit to impose such imprisonment. Every such offence shall be cognizable before any police court having jurisdiction in the district wherein the offence was committed, or the offender apprehended.

Jurisdiction of police court in such cases.

Persons employing, &c., labourers under advances liable in double such advances.

20. Any person who shall take into his service or employment, or harbour, conceal, or retain any servant or journeyman artificer bound to serve another by any contract entered into under any of the provisions of the said Ordinance, without taking reasonable precautions to ascertain whether or not such servant or artificer is so bound, or knowing him to be so bound, or after notice that he is so bound, shall, if the servant or artificer be at the time so taken, harboured, or concealed, or retained, under advances from the person to whom he was so bound, be liable civilly to pay to such person as liquidated damages double the amount of such advances.

Servants not liable to punishment if wages unpaid for one month.

21. No servant or journeyman artificer shall be liable to punishment for neglecting or refusing to work, or for desertion, disobedience, or neglect of duty, if at the time of such alleged offence his wages shall have been unpaid for any period longer than a month: Provided always, that in computing the amount of wages due at any time, such servant or journeyman artificer shall be debited with the amount of all advances of money made to him, and with the value of all food, clothes, or other materials supplied to him, and which the employer is not liable under this Ordinance to supply at his own expense: Provided also, that the fact of such wages being so due as aforesaid shall not affect the liability of such servant or journeyman artificer to punishment under the

provisions of this Ordinance, unless he shall at least forty-eight hours previously to the time of such alleged offence have demanded from his employer the payment of his wages so due, and the employer shall have refused or failed to pay the same.

Kanganies, &c., fraudulently disposing of advances guilty of an offence.

22. Every kangany or other agent who, having been entrusted with any money or valuable security by any person or persons for the purpose of engaging or procuring for hire and service any servant or servants, artificer or artificers for such person or persons, shall, with intent to defraud, convert or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person or persons other than such person or persons as aforesaid or for any purpose other than such purpose as aforesaid, shall be guilty of an offence, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported for any term not exceeding seven years, or to be imprisoned for any term not exceeding three years, with or without hard labour.

Deserters may be directed to return to work instead of being imprisoned or committed.

23. Whenever any servant or journeyman artificer is brought before any court or justice of the peace, on the ground of his having quitted the service of his employer, or having refused or neglected to work, without leave or reasonable cause before the end of his term of service, or previous warning, such court or justice of the peace may, if the employer of such servant or his agent so requires, and the labourer consents thereto, instead of punishing or committing to trial the offender, direct him to return to the service of his employer; and the court or justice shall keep a record of the proceedings had before him, and shall certify at the foot thereof that he has satisfied himself that the servant has of his own free will consented to return to the service of his employer.

Period of absence without leave or of imprisonment not to be counted as part of the period of service.

24. If any servant or journeyman artificer, having entered into any contract of hire and service subject to the provisions of this Ordinance, shall, during the subsistence of such contract, have been imprisoned or have absented himself without leave, the court before which he is tried shall award that no part of the period of such imprisonment or of such absence (and which period the said court is to ascertain by evidence and define), shall be deemed or taken to be a part of the period of his service, but that he shall be compellable, at the option of his employer, to serve for the full period defined as aforesaid for which he shall have contracted to serve; and until such extended service shall have been completed he shall be and shall continue subject to the provisions of this Ordinance.

Transfer of contract of service to new proprietor or manager of estate.

25. If the estate upon which any agricultural servant or journeyman artificer is employed under any contract to serve for a period exceeding one month shall, during the pendency of such contract, become vested in or be transferred to or placed under the superintendence or management of any person other than the person with or by whom such contract was entered into, such contract and all the rights and liabilities incidental thereto shall be deemed in law to be transferred to the person in or to whom the said estate shall become vested or transferred as aforesaid, or under whose superintendence or management the said estate shall

be placed as aforesaid, and such last-mentioned person and such servant or artificer shall be respectively bound to perform all the terms and conditions of the contract in the same manner, or as near thereto as the nature of the case will admit, as if the contract had been originally entered into between such person and such servant or artificer: Provided always, that in case such estate shall become vested in or transferred to any person other than the person with whom such contract shall have been entered into, such servant or journeyman artificer shall thereupon be entitled to determine such contract, if he shall so elect, and give notice of such being his intention to the person in whom the estate shall have become vested or to whom it shall have been transferred, and shall receive all wages then due to him under or by virtue of such contract: Provided, however, that the last-mentioned proviso shall not be held to apply to cases where estates are held in partnership by several persons, and where one or more of the partners retire from the partnership, or when, on such retirement, other partner or partners shall take the place of the retiring partner or partners, one or more of the original partners who were parties to the contract continuing in the partnership.

Proviso.

26. Neither the alleged commission of any crime or offence by any person or persons under the provisions of this Ordinance, nor the conviction nor acquittal of any person or persons of any crime or offence under this Ordinance, shall be a bar to any civil action for damages against such person or persons at the instance of any person or persons who may have suffered any injury, or who may allege that he or they has or have suffered any injury from or by reason of the commission of any such crime or offence.

Penal provisions of this Ordinance not to affect civil actions.

27. Any servant who shall be incapacitated by sickness from labour whilst in the service of any employer shall be entitled to lodging, food, as well as medical care, at the expense of such employer during such incapacity; provided that the employer shall not be bound to pay to the servant during such period his wages in addition: Provided further, that nothing herein contained shall prevent the employer from determining the contract under the 10th section of this Ordinance in case the servant shall become permanently disabled from completing his contract.

Employer bound to find lodging, food, and medical care to sick coolies.

28. Has had its effect.

21st October 1865.

158.

No. 14 of 1865.

An Ordinance relating to the Registration and Licensing of Carts, Boats, and Coaches used for the Conveyance of Goods and Passengers, and for declaring the Rights and Liabilities of the Owners thereof.

Whereas it is expedient to make better provision than exists at present for the registration and licensing of carts, boats, and coaches used for the conveyance of goods and passengers for hire,

Preamble.

and for declaring the rights and liabilities of the owners thereof: It is enacted as follows:

I.—*Preliminary.*

Short title.

1. This Ordinance may be cited for all purposes as "The Carriers Ordinance, 1865."

2. Has had its effect.

Interpretation clause.

3. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

The word "cart" shall include all carts, waggons, or other carriages used on land for the conveyance of goods.

The word "boat" shall include all boats, padas, and canoes, whether impelled by steam or otherwise, and used on any river, lake, or canal for the conveyance of goods.

The word "coach" shall include all mail coaches or other public conveyance by land for the conveyance of passengers or goods.

The expression "Government Agent" shall include any Assistant Government Agent in the province or district in which the owners of carts, boats, and coaches reside or exercise their calling.

4. Repealing clause.

II.—*Registering and licensing of Carts, Boats, and Coaches.*

Carts, boats, and coaches to be registered and licensed.

5. No cart shall be used on land, and no boat shall be used on any river, lake, or canal within the same for the conveyance of goods for hire, and no mail coach or other public conveyance by land shall be used for the conveyance for hire of any passengers or goods unless the owner thereof shall have had the same registered in manner herein-after mentioned, and shall have obtained a license for the same from the Government Agent of the province or district in which such owner resides or exercises his calling.

Mode of obtaining license.

6. The owner of every cart or boat used for the conveyance of goods for hire, or of every coach used for the conveyance of passengers or goods for hire, shall, within forty days from the commencement of each year, or of such other date as the Governor shall for that purpose, by proclamation, appoint for any province, make and subscribe before the Governtment Agent of the province or district in which such owner resides or exercises his calling, a declaration of ownership agreeably to the 12th section of this Ordinance, and if the Government Agent shall by notice in the "Gazette" so require, shall cause such cart, boat, or coach to be marked with the name of such owner and his residence painted in legible characters on some conspicuous part of the cart, boat, or coach. If, by reason of sickness or absence from the Island or other cause any such owner shall be unable to attend before such Government Agent or Assistant Government Agent, such declaration may be made and subscribed by the agent of such owner duly authorized in writing to make and subscribe the same.

Carriers.

7. The Government Agent shall thereupon cause the cart, boat, or coach to be branded, stamped, or cut, as he shall consider best, on the axle or some conspicuous part thereof, with a number corresponding to that in which such cart, boat, or coach is entered in a book of registry to be by him for such purpose kept in the cutcherry, and shall issue to the owner of the said cart, boat, or coach a license, substantially in the form A. in the schedule hereto annexed, together with a plate on which shall be legibly painted or marked the figures and letters denoting the year in and place at which such license was granted, and a ticket on some durable material setting out the registered number of the cart, boat, or coach, and short particulars of the time when, the place where, and the period for which the license shall be granted; and such license shall be issued in duplicate, one being marked "original" and the other "duplicate," and the original shall be on a stamp of six shillings, payable by the owner of the cart, boat, or coach, and shall be in force until the 31st day of December of the year in or for which the same shall be granted, or (if any other day shall have been appointed by the Governor for that purpose for any particular province) until such other day; and it shall be lawful for the agent to add to the plate and ticket any other mark, sign, or device which may serve to render it difficult of imitation: Provided that if any license already granted shall extend to and include any portion of the time for which a license may be granted for the first year after this Ordinance shall come into operation, a proportionate reduction in the stamp duty may be made in the license for such first year.

Carts, &c., to be branded, and license plate and ticket to be issued to owner.

Proviso.

8. In case any cart, boat, or coach, registered as aforesaid, shall be transferred to another by sale, gift, or otherwise, the person to whom the same shall be so transferred shall notify the same to the Government Agent, in order that such transfer may be entered in the book of registry, and a new license issued to the person to whom it shall be so transferred.

Notice of transfer to be given.

9. If any cart, boat, or coach shall be destroyed or rendered wholly unfit for use, the owner thereof shall notify the same to the Government Agent, in order that the number may be erased from the book of registry.

Notice to be given if cart destroyed or rendered unfit for use.

10. The owner of the cart, boat, or coach, and the driver of such cart or coach, or the person in charge of such boat, shall be bound to affix the plate on such part thereof, and in such manner as shall be prescribed in the license granted to the owner, and to keep and continue it so affixed during the continuance of such license, and at the expiration of the period for which the license shall have been granted, or on his ceasing to be the owner thereof, such owner shall be bound to return the license (original and duplicate), plate and ticket, to the Government Agent from whom it was received, and (in case of transfer to another of such cart, boat, or coach) to have his name and residence which had been previously painted thereon obliterated.

Owner bound to affix his plate as required in license, and to return it on the expiry of the term.

11. The original of the license shall be retained by the owner of the cart, boat, or coach, but the driver of the cart or coach, or the person in charge of the boat, shall have the duplicate of such

Owner to have original license, and driver duplicate and ticket.

license and the ticket, and be ready to produce the same whenever thereunto required.

Declaration of ownership.

Proviso.

12. The declaration of ownership to be made under the 6th section of this Ordinance shall be substantially in the form B. in the schedule hereto annexed: Provided that if it shall become necessary to license any cart or other carriage, boat, or coach belonging to two or more persons in partnership, or to a corporate body, or to a joint stock company, such declaration may be made by one of the partners, or by the person managing the affairs of such firm, body, or company.

Reference to headman, &c.

13. The Government Agent may, if to him it shall appear necessary to do so, cause reference to be made to any headman or other person to ascertain the truth of any statement in the declaration of ownership, and to delay granting the license until the result of such reference is ascertained.

Government Agent may issue license, &c., in place of one lost or destroyed.

14. The Government Agent may, on his being satisfied that any license, plate, or ticket has been lost or destroyed by accident, issue an exemplification of the license, plate, or ticket, on the application of the owner of the cart, boat, or coach.

Books and lists to be kept of vehicles licensed.

Lists to be published in "Gazette."

Inspection.

15. The Government Agents shall, and they are hereby required, to keep a book or books in which shall be entered the lists of the carts, boats, and coaches licensed under this Ordinance, with all necessary particulars; and to publish the lists of the licensed carts, boats, or coaches in the "Government Gazette," or any supplement thereof, from time to time. It shall be lawful for any person at any time during office hours to demand inspection of the said lists, and also to take copies or extracts therefrom.

Penalty for letting unlicensed carriage, &c.

16. If any person shall, contrary to the provisions of this Ordinance, use, or permit or suffer to be used, any cart, boat, or coach belonging to him, without obtaining a license for the same, or after the expiration of the period mentioned in such license; or without having the said plate affixed as aforesaid; or if he shall use the said plate, or suffer it to remain affixed after the period for which it was given shall have expired; or shall neglect or refuse to deliver up license or plate within one month after the expiration of such license, or after he has ceased to be the owner of such cart, boat, or coach; or if upon being thereunto required by any justice of the peace, superintendent of police, police officer, or any person claiming interest in the goods conveyed or to be conveyed in such cart, boat, or coach, any such person shall refuse or neglect within a reasonable time to produce the license for the same or the ticket to such justice of the peace, superintendent of police, police officer, or such other person; or if any person shall use or permit or suffer to be used any cart, boat, or coach without having his name and residence painted thereon; or if any person shall fail to give notice of transfer to another of his cart, boat, or coach, or of such cart, boat, or coach having been destroyed or rendered wholly unfit for use, then in every such case the owner of such cart, boat, or coach, or the person so offending, shall be guilty of an offence, and liable, on conviction thereof, to a fine not exceeding five pounds for the first offence, and for the second and every other offence to a fine not exceeding ten pounds; and the said cart, boat, or coach,

and every ox, horse, or other animal used for drawing the same, shall, in every such case of a second or subsequent offence, be forfeited, if the court before which such conviction shall take place shall so adjudge.

17. If any person shall wilfully make any false declaration to any of the matters herein-before required to be verified by declaration; or if any person shall counterfeit, alter, falsify, or forge the branding prescribed by the 7th section, or any license, plate, or ticket, or part of any license, plate, or ticket issued under the provisions of this Ordinance; or if any person shall knowingly and without lawful excuse (the proof of which excuse shall be on the person accused) have in his possession any false, forged, or counterfeit license, plate, or ticket resembling or intended to resemble, either wholly or in part, any license, plate, or ticket which at any time whatever hath been or shall or may be issued or used under the provisions of this Ordinance; then and in every such case every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence, and being thereof lawfully convicted, shall be guilty of an offence, and shall be liable to be imprisoned with or without hard labour for any term not exceeding five years.

Penalty for false declaration, forgery of license, &c.

II.—*Liabilities of Owners of Carriages and Boats.*

18. The owner of every such licensed cart, boat, or coach, used for the conveyance of goods for hire, shall, in the absence of any special contract between him, or the person in charge of such cart, boat, or coach, and any other party for the conveyance of such goods, be liable for any loss of, or injury to, any goods, articles, or property whatsoever, delivered to be carried therein for hire, which shall be occasioned by the neglect or misconduct of such owner, or of any driver, coachman, boatman, book-keeper, or other person or servant in his employ, or in charge of any such cart, boat, or coach; and such liability shall be deemed to continue in the person who shall have made the declaration of ownership herein required, unless and until he shall have given the notice of transfer required by the 8th section of this Ordinance: Provided, however, that nothing in this section contained shall be construed to limit, or in any wise affect, the liability of any such owner as a common carrier if he shall be such.

Liability of the owners of licensed carriages.

Proviso.

19. Provided that no such owner shall be liable for the loss of, or injury to, any article or articles, or property of the descriptions following; (that is to say, gold or silver coin of this or any other country, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills of exchange, orders, notes, or securities for payment of money, stamps, maps, writings, title-deeds, paintings, engravings, pictures, gold or silver plate, or plated article, glass, china, opium, silks in a manufactured or unmanufactured state, and whether or not wrought up into other materials, or lace, or any of them, contained in any parcel or package which shall have been delivered to be carried for hire,

Not liable for loss of certain goods above five pounds unless delivered as such.

or to accompany the person of any passenger, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of five pounds) unless at the time of delivery thereof at the office, warehouse, or receiving house of such owner, or to such owner or to his driver, coachman, boatman, book-keeper, or other servant for the purpose of being carried, or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

Increased rate of charge for such goods.

20. When any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of five pounds, it shall be lawful for the person receiving the same for carriage on hire to demand and receive an increased rate of charge to be notified by some notice affixed in legible characters in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering any such parcels or packages at any such office shall be bound by such notice without further proof of the same having come to their knowledge.

Carriers to give receipts.

21. Whenever any goods shall have been received for conveyance for hire by any such licensed cart, boat, or coach, whether the same be such goods as are mentioned in the 19th section of this Ordinance, or other goods, the person receiving the same for carriage on hire, shall, if thereto required when the rate of carriage shall have been paid, or an engagement to pay the same shall have been accepted, sign a receipt for the said goods, setting out therein the name and residence of the owner; and if such receipt shall not be given when required, the person so receiving the same for carriage, in addition to any other liability which he may incur by such refusal, shall not have or be entitled to any benefit or advantage under the 19th section of this Ordinance, and shall be liable to refund any increased rate of charge he may have received in respect of the goods specified therein, and shall further be liable to a fine not exceeding twenty shillings.

Penalty in case of neglect.

Publication of notice to limit liability in respect of other goods.

22. Provided that no public notice or declaration by the owner of any such licensed cart, boat, or coach shall be deemed or construed to limit or in anywise affect his liability as aforesaid for or in respect of any articles or goods to be carried and conveyed by him, but that all and every such owners shall be liable to answer for the loss of, or any injury to, any articles and goods in respect whereof they may not be entitled to the benefits of the 19th section of this Ordinance, any public notice or declaration by them made and given in anywise limiting such liability to the contrary notwithstanding.

23. Any one or more of the owners of any such licensed cart, boat, or coach shall be liable to be sued by his or their name or names only; and no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want of joining any coproprietor or copartner in such carriage or boat.

Any owner may be sued.

24. Where any such goods as are mentioned in the 19th section of this Ordinance shall have been delivered as aforesaid, and the value and contents declared as aforesaid, and the increased rate of charge, if any, paid, and such goods shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover such increased charge so paid as aforesaid in addition to the value of such goods.

Parties entitled to damages may also recover extra charges.

25. Provided that nothing in the 19th section of this Ordinance contained shall be deemed to protect the owner of any such licensed cart, boat, or coach from liability to answer for loss or injury to any goods or articles whatsoever arising from theft or fraudulent conduct of any coachman, driver, book-keeper, boatman, or other person or servant in his employ, or in charge of any such cart, boat, or coach, nor to protect any such coachman, driver, book-keeper, boatman, or other person or servant from liability for any loss or injury occasioned by his or their own personal neglect or misconduct.

Owner liable for thefts committed by his servants, &c.

26. Further, that no owner of any such licensed cart, boat, or coach shall be concluded as to the value of any goods whereof the value shall be declared in pursuance of the 19th section of this Ordinance, but he shall in all cases be entitled to require from the party suing in respect of any loss or injury proof of the actual value of the said goods by the ordinary legal evidence; and such owner shall be liable to such damages only as shall be proved as aforesaid, not exceeding the declared value, together with the increased charges as aforesaid.

Owner liable to such damages only as are proved.

III.—*Delivery of Goods.*

27. Every box, basket, package, parcel, or other thing whatsoever not exceeding fifty pounds weight brought to any coach office, hotel, warehouse, or other place, and accepted for the purpose of being carried by any licensed coach, shall be dispatched on the day and by the coach or conveyance agreed upon, and every such box, basket, package, parcel, or other thing brought to any coach office, hotel, warehouse, or other place by any licensed coach for the purpose of delivery at any place within four miles of such office, hotel, warehouse, or other place (except where the same shall be directed to be left till called for), shall be delivered according to the direction thereof within six hours after the arrival of any such box, basket, package, parcel, or other thing at such coach office, hotel, warehouse, or other place, unless such arrival shall be between the hours of five in the evening and seven in the morning, and in that case every such delivery shall be made within six hours after such hour in the morning, and in default thereof the keeper of such coach office, hotel, warehouse, or other

Parcels brought by coaches to be delivered within six hours.

place shall for every such offence be liable to a fine not exceeding twenty shillings.

Within 48 hours, if distance be beyond four miles.

28. Every box, basket, package, parcel, or other thing deliverable at places beyond four miles from such office, hotel, warehouse, or other place shall be delivered within forty-eight hours after the arrival of such coach, and in default thereof the keeper of such coach office, hotel, or warehouse, or other place shall for every such offence be liable to a fine not exceeding twenty shillings.

Parcels directed to be left till called for.

29. Every such box, basket, package, parcel, or other thing brought to such coach office, hotel, warehouse, or other place as aforesaid, which shall be directed to be left till called for, shall, upon the demand of the person properly authorized to receive the same, be delivered to such person without any charge or demand whatsoever other than what is justly due for the carriage thereof, and the additional sum of twopence for the warehouse room thereof; and if the same be not delivered to such person on such demand, or any charge other than as aforesaid be made or received in respect thereof, every keeper of such coach office, hotel, warehouse, or other place shall for every such offence be liable to a fine not exceeding twenty shillings: Provided, nevertheless, that if such box, basket, package, parcel, or other thing so directed to be left till called for be not sent for from such coach office, hotel, warehouse, or other place before the end of one week after the same is brought to such coach office, hotel, warehouse, or other place, it shall be lawful to and for the keeper of such coach office, hotel, warehouse, or other place to charge and receive the further sum of threepence for the warehouse room thereof, and so in like manner, if the same be not sent for before the end of the second or any subsequent week, to charge the further sum of threepence weekly.

Warehouse room.

Proviso for parcels not directed to be left till called for.

30. If any such box, basket, package, parcel, or other thing brought to such coach office, hotel, warehouse, or other place as aforesaid, which is not directed to be left till called for, shall, before the same is sent for delivery from such coach office, hotel, warehouse, or other place, be demanded by any person properly authorized to receive the same, such box, basket, package, parcel, or other thing shall be thereupon delivered to such person demanding the same, and it shall in such case be lawful to and for the keeper of such coach office, hotel, warehouse, or other place to charge and take the sum justly due for the carriage thereof, and also the sum of twopence for the warehouse room thereof; but if the same be not delivered to such person on such demand, or any charge other than as aforesaid be made or received in respect thereof, the keeper of such coach office, hotel, warehouse, or other place shall for every such offence be liable to a fine not exceeding twenty shillings.

Rates of coolie hire of parcels not exceeding 50 lbs.

31. The keeper of any coach office, hotel, warehouse, or other place to whom any box, basket, package, parcel, or other thing whatsoever, not exceeding fifty pounds weight, is brought by any licensed coach, or any coolie or other person employed by the keeper of any such coach office, hotel, warehouse, or other place

as aforesaid, in the delivery of any such box, basket, package, parcel, or other thing as aforesaid, shall be entitled to ask, demand, receive, and take, in respect of such delivery, the sums herein-after mentioned; that is to say,

For any distance not exceeding one mile, the sum of threepence.

For any distance exceeding one mile but not exceeding two miles, the sum of sixpence.

For any distance exceeding two miles but not exceeding three miles, the sum of ninepence; and so in like manner the additional sum of threepence for every further distance not exceeding a mile.

Penalty on taking more than the above rates.

32. If any coolie or other person employed in the delivery of such boxes, baskets, packages, parcels, or other things as aforesaid, shall ask or demand of or from any person or persons in respect of such delivery any greater sum or sums than the rates or prices herein-before fixed in that behalf, such coolie or other person shall for every such offence be liable to a fine not exceeding ten shillings.

Goods sent by carts and boats to be delivered within twenty-four hours.

33. All goods and merchandise sent by any licensed cart or boat, for the purpose of delivery at any place within this Island, shall, in the absence of any special contract to the contrary, be delivered according to the direction thereof within twenty-four hours after the arrival of any such cart or boat at the place of delivery, and in default thereof the owner of such cart or boat shall forfeit and pay for every such offence any sum not exceeding twenty shillings.

IV.—*Miscellaneous.*

Proof of license to be on the accused.

34. If in any prosecution or proceeding under this Ordinance any question shall arise as to whether any cart, boat, or coach has been used for the conveyance of any goods for hire without a license, or as to whether a license has been obtained for any cart, boat, or coach, within the meaning thereof, or as to whether any person has made the declaration required thereby, the proof that such goods were not conveyed for hire, or that the goods belonged to himself, or that license has been obtained or the declaration made, shall be upon the accused, or the party against whom such prosecution or proceeding shall be had: Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused, against any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance.

Proviso.

Informer's share of penalty.

35. The court before which the prosecution or proceeding is taken may award any share of the fines actually recovered and realized, not exceeding one half, to be paid to the informer.

Limitation of prosecution.

36. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by the police court unless the same shall be

commenced within one month from the time of the commission of such offence.

This Ordinance not to apply to railways or carriages referred to in No. 7 of 1848.

37. Nothing in this Ordinance contained shall be held to apply to the conveyance of goods or passengers by railway or to palanquin and other carriages let to hire and referred to in the Ordinance No. 7 of 1848, entitled "For registering Palanquin and other Carriages let to hire."

SCHEDULE.

A.

LICENSE.

Number *Colombo*, the day of 18

WHEREAS *A.B.* of in the district of (*C.D.* of in the district of *&c. &c.*,) in pursuance of "The Carriers Ordinance, No. 14 of 1865," has (*or* have) made and subscribed the declaration thereby required, and has (*or* have) declared that he is the sole owner (*or* that they are the joint owners) of the (cart, boat, *or* coach, *as the case may be*) marked and registered number , license is hereby granted unto the said *A.B.* (*or A.B., C.D., &c.*) to convey goods (*or* passengers, *or* goods and passengers) therein for hire from the date hereof until the

This license is to be affixed on (*describe part of cart, boat, or coach*) and in (*describe manner in which it is to be affixed*).

Given under my hand the day and year above written.

(Signed)

Govt. Agent.

B.

DECLARATION OF OWNERSHIP.

Number

I, *A.B.*, do truly declare that I reside at in the district of and that I am the (sole owner *or* joint owner with *or* that the cart belongs to the of which I am the manager, *as the case may be*) of the (cart, boat, *or* coach), which I have applied to be registered at the cutcherry, and which has been registered number .

Declared at *Colombo*, the day of 18

(Signed) *A. B.*

28th October 1865.

159.

No. 16 OF 1865.

An Ordinance to provide for the establishment and regulation of a Police Force in this Island.

WHEREAS it is expedient to provide for the establishment and regulation of a police force in this Island: It is enacted as follows: Preamble.

I.—*Preliminary.*

1. This Ordinance may be cited for all purposes as "The Police Ordinance, 1865." Short title.

2. Has had its effect.

3. Repealing clause.

4. So soon as this Ordinance shall come into operation in Jaffna and Manaar, the regulations set out in the Schedule B. hereto annexed, with reference to each place, shall be repealed, except as in the preceding section excepted. Provision for future repeal of certain local laws.

5. So soon as any of the provisions of this Ordinance shall be brought into operation within any town, village. or limits, or part of any town or village, all laws, customs, and usages which may then be in force therein, so far as they are in anywise repugnant to or inconsistent with the provisions of this Ordinance, shall be revoked, abrogated, and repealed. Laws and customs repugnant to this Ordinance repealed.

6. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction: Interpretation.

The expression "Government Agent" shall include the Assistant Government Agent of the province, or, where there is any Assistant Government Agent for the district in which any proceeding contemplated by this Ordinance is taken, such Assistant Government Agent:

The word "town" shall include any village or limits set out for the purposes of this Ordinance:

The expression "police officer" shall include the chief superintendent of police, provincial inspectors, district inspectors, serjeants, and constables:

The word "person" shall include a company or corporation:

The word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats, and swine.

II.—*General Police Force.*

7. It shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time, as occasion may require, to establish by proclamation in the "Government Gazette," a police force for the effectual protection of person and property within such towns as to them shall appear to require the same. Whenever such force shall be so established within any town this Ordinance shall come into operation therein: Provided that no proclamation shall be necessary to establish the force in places where the same shall have been already established under Establishment of police force.

the Ordinance No. 17 of 1844, in which said places this Ordinance shall come into operation on the day in the second section mentioned.

Police force may be established in certain places, though not maintained as herein provided.

8. It shall be lawful for the Governor, with the advice and consent of the Executive Council, by proclamation in the "Government Gazette," to establish a police force in any place other than large towns, though such force be not maintained in the manner prescribed by this Ordinance, and to declare that certain of the provisions of this Ordinance shall come into operation at such place, specifying the limits thereof, and such proclamation from time to time to revoke, alter, or amend.

Police in rural districts.

9. It shall be lawful for the Governor, with the advice and consent of the Executive Council, to establish a police force in any rural district, and to cause the same to be maintained in the manner herein-after prescribed.

Quartering of police in disturbed or dangerous disticts, or districts the inhabitants of which misconduct themselves.

10. It shall be lawful for the Governor, with the advice and consent of the Executive Council, by proclamation in the "Government Gazette," to quarter police, or, should a police force have been already established there, to increase the same in any part of the Island which shall be found to be in a disturbed or dangerous state, or in any part in which, from the misconduct of the inhabitants, (whether in harbouring offenders or suspected persons, refusing to aid in their apprehension, or otherwise,) they may deem it expedient so to do; and the inhabitants of the part of the Island in which the police or the additional number of men as aforesaid shall be so quartered, shall be charged with the cost of the men; and the Government Agent to whose province such part belongs, but not any Assistant Government Agent, shall assess the proportion in which such cost is to be paid by the inhabitants according to his judgment of their respective means.

Additional force in the neighbourhood of railway and other works.

11. Whenever any railway or other large work, or any manufactory or commercial concern shall be carried on or be in operation in any part of the country, and it shall appear to the chief superintendent or any provincial inspector that the appointment of an additional force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of persons employed upon such work, it shall be lawful for the chief superintendent of police or provincial inspector, with the advice and consent of the Governor and Executive Council, to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds of any company or person carrying on such works for the payment of the extra force so rendered necessary as aforesaid.*

Some of the provisions only of this Ordinance may be brought into operation in any place.

12. It shall be lawful for the Governor, with the advice and consent of the Executive Council, by proclamation in the "Government Gazette," to declare that such of the provisions of this Ordinance as to them may seem advisable shall come into operation at any place as shall appear to them to require the same, though there be no police force established therein.

* See Ord. 7 of 1866, § 2.

Police Force.

13. The proclamation establishing a police force in any town shall also specify and define the limits of such town, and it shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time as occasion may require, by Proclamation, to alter or vary such limits.

Definition of limits.

III.—*Police in Rural Districts.*

14. For the purposes of the present division of this Ordinance, the word "proprietor" shall mean the sole or any joint owner of an estate, and the word "estate" shall mean a tract of land exceeding twenty-five acres, belonging to one person or to several persons, cultivated or uncultivated, and forming a separate or distinct property.

Interpretation clause.

15. The proprietor of any estate situated in any district or locality, may make application, in writing, to the Government Agent of the province in which such estate is situated that a police force should be established in the said district, and shall set forth in such application the name of the district, the names of all estates therein, the names of the proprietors, or (if the same be unknown,) of the resident managers thereof, the probable extent of the land belonging to such estates, and the number of men to form the force which, in the opinion of the applicant, will be required to be stationed therein for the purposes of the district.

Applications to bring districts under the operation of this Ordinance.

16. On receipt of such application, the Government Agent shall give such public notice as he thinks necessary of his intention to define the limits of the district, the estates in which will, if the proposal to establish a police force in the said district be adopted by the proprietors of at least two thirds of the acreage of the estates in any such district as herein-after provided, become and be severally bound and liable for the amount of contribution towards the maintenance of the police force which the said estates may be afterwards assessed at, in manner provided by this Ordinance; and in such notice the Government Agent shall appoint the time and place when and where he will attend to receive, inquire into, and consider the objections of any proprietor against his estate being included within the limits of such district; and the said Government Agent, after making such inquiry as he may deem requisite, and considering any such objections, shall proceed to define the limits of such district, and shall enter a description of such limits in the minutes of his proceedings, and shall thereupon transmit a requisition to the proprietor of every estate within the limits of such district so defined as aforesaid, (or, in case of his absence from the Colony, to the resident manager, or, if there be no resident manager, to the agent in this Colony of the proprietor, if any, or if there be no known agent, shall cause requisition to be affixed in some conspicuous part of the estate,) calling upon him to declare in writing, within such time as shall be therein specified, whether he desires that a police force should be established in the said district and to specify the clauses of the Ordinance which ought, in his opinion, to be introduced therein. If no answer be sent to the Government Agent within the time limited by such requisition, the person to whom the same was

Proceedings thereon.

forwarded shall be deemed and taken to have concurred in the proposal referred to therein.

If two thirds concur, the application to be forwarded to Government with agent's report.

17. If it shall appear to the Government Agent, from the replies to such requisitions, or otherwise, as aforesaid, that a majority, consisting of the proprietors of at least two thirds of the acreage of estates in any district, are desirous that a police force should be established in the said district, the said Government Agent shall forthwith forward such application to Government, together with his report as to the necessity for locating a police force in the district, and as to the number of men to compose such force, and the amount in money required for its up-keep; and thereupon it shall be lawful for the Governor, with the advice and consent of the Executive Council, by proclamation in the "Government Gazette," to establish a police force in such district, from such time as shall be therein named, and to introduce such of the clauses as the Governor and Council shall consider expedient in such district, and such clauses shall accordingly come into force at the time so named. The Governor may, with the like advice and consent as aforesaid, revoke, alter, or amend such proclamation.

Proclamation thereon.

The Government Agent to assess the share to be contributed by each estate.

18. On such proclamation being made, the Government Agent shall proceed to assess the proportion due by each estate, by dividing the sum of money equal to a moiety of the total cost of maintaining such force in the district by the total number of acres of the estates in the district, and thus apportioning the amount due by each estate; and the rate so assessed shall be binding and conclusive on all proprietors of estates in such district; and the Government Agent shall thereupon transmit a notice to the proprietor of each estate, (or in case of his absence from the Colony, to the resident manager, or, if there be no resident manager, to the agent in this Colony of the proprietor, if any, or if there be no known agent, he shall cause such notice to be affixed in some conspicuous part of the estate,) informing him of the yearly amount of contribution due by him, to make up the proportion payable by the district, and the date when the first quarterly instalment is payable, as herein-after provided.

Date of payment of contribution.

19. The amount due by each estate for a year shall be payable in advance by quarterly instalments, the first instalment on such day as shall be fixed in the notice above mentioned, and the other instalments at the commencement of each successive quarter.

Mode of recovery in case of default.

20. If the amount so due as aforesaid shall not be paid when due, the same shall be recovered in the manner provided by the 41st, 42nd, 43rd, 44th, and 45th sections of this Ordinance.

Alteration of district on assessment.

21. Should it be found necessary at any time after the original assessment to alter the limits of any district, or to reduce or increase the force therein, it shall be lawful for the Governor, with the advice and consent of the Executive Council, to do so; and the Government Agent shall give the same notice of such alteration, and of the new rates payable in consequence, as he is herein required to give of the original proceedings; and such notice shall be served and such new rates recovered in the same way as are herein prescribed in respect of the original notice and rates.

22. For the purpose of discontinuing the police force when introduced into any district under this Ordinance, the same course shall be taken as is prescribed in this Ordinance for its introduction, and if the demand for its withdrawal be adopted by the proprietors of two thirds of the acreage, the said Government Agent shall forthwith notify to Government that the required majority is in favour of the withdrawal of the police force; and thereupon it shall be lawful for the Governor, with the advice and consent of the Executive Council, by proclamation in the "Government Gazette," to direct that the employment of the said police force in the said district shall cease and determine from the date fixed in the proclamation. But nothing herein contained shall prevent proceedings being afterwards taken for the re-establishment of a force in the manner recognized by this Ordinance, for the original establishment of a force in any district.

Discontinuance of force in any district.

Its re-establishment.

IV.—*Police Officers.*

23. Repealed.

24. It shall be lawful for the Governor from time to time, as occasion may require, subject to the pleasure of Her Majesty, her heirs and successors, to appoint the chief superintendent of police, and provincial and district inspectors, who shall hold office during pleasure.

Appointment of principal officers.

25. It shall be lawful for the chief superintendent of police to nominate and appoint such and so many serjeants and constables as the Governor shall direct; and, if need be, subject to the approbation of the Governor, and to the rules to be made as herein-after provided, to dismiss, suspend, reduce, or fine to any amount not exceeding one month's pay, any such officer whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Appointment of minor officers.

26. It shall be lawful for the chief superintendent of police or any provincial inspector, if he shall think fit, on the application of any person showing the necessity thereof, to appoint any additional number of police officers to keep the peace, at the charge of the person making the application, but to be under the orders of the chief superintendent or provincial inspector, and for such time as they shall think fit: Provided that it shall be lawful for the person on whose application such appointment shall have been made, on giving one month's notice in writing to such chief superintendent or provincial inspector, to require that the officer so appointed shall be discontinued, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Additional police officers to be employed at the cost of individuals.

Proviso.

27. If upon demand any person refuses or fails to pay the sum due by him for maintaining the additional force under the 10th, 11th, and 26th sections, the chief superintendent or provincial inspector shall report such refusal or failure to the nearest police court, which shall proceed to recover such sum as if it were a fine imposed by that court.

Recovery of expense under the 10th, 11th, and 26th sections.

28. When it shall appear that any tumult, riot, or outrage has taken place, or may be reasonably apprehended in any place, and

Special police officers.

that the ordinary police officers appointed for preserving the peace are not sufficient for its preservation and for the protection of the inhabitants, and for the security of property in such place, it shall be lawful for any justice of the peace to appoint so many of the public or residents in the neighbourhood as may be required, to act as special police officers for such time and in such manner as he shall deem necessary.

Powers of special police officers.

29. Every special police officer so appointed shall have the same powers, privileges, and protection, and be liable to all such duties and penalties, and be subordinate to the same authority as the ordinary officers of police.

Refusal to serve.

30. If any person being appointed a special police officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be guilty of an offence, and be liable to a fine not exceeding five pounds for every such neglect, refusal, or disobedience.

Police officers not to resign without leave or two months' notice.

31. No police officer shall be at liberty to resign his office or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the chief superintendent or provincial inspector; or unless he shall have given to his superior officer two months' notice in writing of his intention to do so; nor shall any such police officer engage in any employment or office whatever other than his duties under this Ordinance, unless expressly permitted to do so in writing by the chief superintendent.

When police force in small towns may be placed under a local officer.

32. If a police force be established in any place in which, from the small size of the town, or the limited nature of the force, it shall not be necessary to place any inspector at the head thereof, it shall be lawful for the Governor to place such force under the control of any public officer having authority in such place, and such public officer shall in that case exercise the powers herein vested in officers not under the grade of inspectors: Provided that nothing herein contained shall be held to interfere with the general control of the Chief Superintendent of Police over the entire force and all officers thereof.

Proviso.

V.—*Maintenance of General Police.*

Expenses of police.

33. The salaries of the Chief Superintendent of Police and of the provincial inspectors, the cost of barracks, hospitals, medical attendance, and arms will be defrayed by the Government. All other expenses must be defrayed by the inhabitants of the towns for the protection of whose persons and property the police is established, except where a force is created under the 8th section of this Ordinance. The expenses of police in rural districts shall be defrayed in equal shares by the Government and by proprietors of estates in each district as herein-before provided: Provided, however, that when any town is created a municipality, the expenses of the police shall be provided for and recovered as directed by "The Municipal Councils Ordinance, 1865," or any other Ordinance to be for that purpose herein-after enacted.

Proviso.

Tax to be levied for main-

34. For the purposes of creating a fund from which the expenses of the police payable by each town not created a municipality are

to be defrayed, a tax shall be payable on the 31st day of March, on the 30th day of June, on the 30th day of September, and on the 31st day of December, in every year, for the quarter ending on the said days respectively, on all houses and buildings of every description, and on all lands and tenements whatsoever, within every such town, to an amount equal to such per-centage on the *bonâ fide* annual value of such houses, buildings, lands, and tenements, as the Governor, with the advice and consent of the Executive Council, shall by proclamation from time to time appoint, except in cases where such amount shall fall below the sum of sixpence per quarter, in all which excepted cases sixpence per quarter shall be assessed and payable: Provided that such tax shall not in the aggregate exceed the sum necessary for the maintenance of the force in such town, except as aforesaid, and which sum it shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time to determine and appoint: Provided further, that buildings appropriated to religious worship, and such as are placed in charge of military sentries, shall be exempted from the payment of such tax.

tenance of police.

Proviso.

35, 36. Repealed.

37. Such committee* shall without unnecessary delay after its appointment proceed to inquire into, and according to the best of its information and judgment, ascertain and assess as aforesaid the *bonâ fide* annual value of all houses, buildings, lands, and tenements within such town, and the tax hereby imposed on or payable for the same, and for that purpose it shall be lawful for the said committee or any member thereof, or for any person in company with or authorized in writing in that behalf by any such member, to enter any houses, buildings, lands, and tenements, and to cause to enter therein such persons and things as may be necessary, and to proceed to do or cause to be done therein all such things as may be necessary to enable such committee to ascertain the annual value of such houses, buildings, lands, or tenements; and such committee shall without delay report the assessment so made by them to the Government Agent of the province, who shall thereupon cause the same to be entered in a book which shall have an index or other convenient form of reference, and shall be kept at his office for public inspection. It shall be lawful for the Government Agent to revise such assessment, and to make such alterations therein as he shall consider expedient.

Mode of assessment.

38. In order to enable the committee to arrive at a fair valuation of any houses, buildings, or lands liable to the rate, it shall be lawful for them to require the owner or occupier of such houses, buildings, or lands to furnish them with returns of the rent or annual value thereof. Whoever refuses or fails to furnish such returns within one week from the day on which he shall have been required to do so, and whoever makes a false or incorrect return, shall be liable to a fine not exceeding five pounds.

Power to committee to call for returns.

39. The tax hereby imposed shall be payable quarterly, and shall be recovered in manner herein-after provided from the

Tax to be payable quarterly by owner.

* Committee of Assessors (see Ord. 7 of 1866, § 5).

owner or owners, or from any or either of the owners of the houses, buildings, lands, or tenements liable to such tax, and if any person in the occupation of any such house, building, land, or tenement so liable, and not being the owner or a joint owner thereof, shall refuse, upon application being made in that behalf, to inform the said committee, or any member thereof, or the Government Agent, or any person authorized by him to make such application as to the correct name and residence of the owner or owners of the said house, building, land, or tenement, every such person shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Notice of assessment and demand of payment of tax to be served.

40. The Government Agent shall, as soon as may be after the commencement of each year, cause to be served upon the owner or some joint owner of every house, building, land, or tenement liable to the payment of the tax imposed by this Ordinance, a notice of assessment, having subjoined thereto a demand of payment of the tax, as near as is material in the form in the Schedule C. hereunto annexed. Such notice shall be in the English, Singhalese, or Tamil language, in the discretion of such Government Agent, and shall be served either personally upon the party to whom it is addressed, or by leaving it with some member of his household, or by affixing it to some conspicuous part of the house, building, land, or tenement liable to the payment of such tax.

Proceeding if tax not duly paid.

41. If any person shall not pay the tax due by him under this Ordinance as soon as the same is due, either into the office of the Government Agent, or to some collector authorized by the Government Agent, by writing under his hand, to collect and receive the same upon demand made by such collector, it shall be lawful for the Government Agent, and he is hereby thereunto authorized and required, for non payment of such tax to seize any pr perty whatsoever belonging to the person by whom such tax is due, wheresoever the same may be found within the province of such Government Agent, and also to seize any moveable property, to whomsoever the same may belong, which shall be found in or upon any house, building, land, or tenement for which such tax shall be due; and if the amount due on account of such tax, together with the costs and charges payable by virtue of the 43rd section of this Ordinance, shall not be sooner paid or tendered to such Government Agent, to sell the property so seized by public auction at any time not less than ten nor more than thirty days from the time of such seizure. It shall be lawful for the Government Agent or any Assistant Government Agent to authorize any person specially in writing to seize and sell property as herein provided for.

Property may not be seized for arrears of tax beyond two quarters.

Exceptions.

42. It shall not be lawful for the Government Agent to seize any moveable property which may be found in or upon any house, building, land, or tenement in respect of which such tax shall be due, for any arrears of tax due beyond two quarters next preceding such seizure, unless such moveable property shall belong to any person who was the owner or a joint owner of the said house, building, land, or tenement at the time the arrears beyond such

two quarters accrued and became due; or unless such moveable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

Property seized may be removed, or a person placed in possession.

43. Any moveable property seized as aforesaid may be removed by the Government Agent for safe custody, pending the sale thereof, to such place as he may think fit; and in case of the seizure of immoveable property, or of any property which cannot be conveniently removed, such Government Agent may place and keep a person in possession thereof pending such sale.

Costs of seizure, &c.

44. It shall be lawful for the Government Agent to demand, take, and receive from the person by whom the tax is due, or from the owner or any joint owner of any property which may be lawfully seized for nonpayment of such tax, the several sums of money mentioned in the following table, that is to say:—

Table of Charges incurred in the Recovery of Tax.

(1.) For cost of proceeding to the house or land of the party in default, in order to seize property, a charge not exceeding one penny for every shilling of tax due.

(2.) For removal of the goods seized, in case such removal takes place, a charge not exceeding one penny for every shilling of tax due.

(3.) For keeping the same in safe custody in case of such detention, a charge not exceeding one penny per day.

(4.) For keeping a person in possession in case of a seizure of immoveable property, or if the goods seized are not removed, a charge not exceeding one shilling per day.

(5.) For the expenses of sale, where any takes place, a charge not exceeding sixpence in the pound on the net produce of the sale.

Houses may be broken open, &c.

45. It shall be lawful for the Government Agent to break open or cause to be broken open in the daytime, any house or building, for the purpose of seizing property in pursuance of this Ordinance.

Tenant paying tax to avoid seizure of his property may deduct it from his rent.

46. It shall be lawful for the occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property shall have been seized as aforesaid, or who, to avoid such seizure, or after seizure to avoid a sale of such property, shall have paid the amount of tax due in respect of such house, building, land, or tenement, and the costs demandable by virtue of this Ordinance, to deduct the amount paid by him from the first payment of rent due by him on account of the said house, building, land, or tenement to the owner or owners thereof, and the receipt of the Government Agent for the amount so paid shall be deemed an acquittance in full for the like amount of rent: Provided always, that nothing herein contained shall authorize any such deduction from his rent by any occupant who, by the terms of his lease or other agreement was himself bound and liable to pay such tax.

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After payment of the tax and charges, overplus accruing from sale to be restored to the owner of the property.

47. In the event of a sale of property seized, the Government Agent shall, after deducting the amount due on account of such tax, and also the costs and charges payable by virtue of the 44th section of this Ordinance (which said costs and charges the Government Agent is hereby authorized to retain), restore the overplus arising from such sale, if any there be, to the owner or to some joint owner of the property sold; and the Government Agent shall, upon application in that behalf, grant a receipt for the amount of the tax recovered, and of such costs and charges, to the owner or joint owner of such property.

Certificate of sale.

48. If land or other immoveable property be sold for non-payment of tax, a certificate substantially in form D. in the Schedule hereto annexed, signed by the Government Agent, shall be sufficient to vest the property in the purchaser, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immoveable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

Objection to assessment.

49. If any person upon whom any such notice under the 40th section shall have been served, shall consider that the assessment in respect of which such notice was served was unduly or incorrectly made or ascertained, it shall be lawful for such person to object to such assessment, whatever may be its amount, before the proper court of requests, and no other court shall be competent to entertain any such objection, and such court shall decide upon the matter of such objection in a summary way, and award the costs thereof: Provided always that no such objection shall be entertained by any court of requests unless the same shall be made within ten days after the service of such notice as aforesaid, nor unless the party objecting or some person authorized by him in that behalf in writing shall at the time of making such objection satisfy the court, by affidavit or otherwise, that the Government Agent has been furnished with a statement in writing of the specific grounds on which such objection is founded.

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VI.—*Police Rules.*

The Chief Superintendent of Police may make rules for police.

50. The Chief Superintendent of Police may from time to time, subject always to the approbation of the said Governor and Executive Council, frame orders and regulations for the observance of the police officers who shall be placed under his control as aforesaid, and also for the general government of such persons, as to their places of residence, classification, rank, and particular services, as well as their distribution and inspection, and all such orders and regulations relative to the said police force as he may deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of its duties; and every police officer who shall neglect or violate any such orders or regulations, or any duty imposed upon him by this or any other Ordinance, shall be guilty of an offence, and be liable to any fine not exceeding five pounds (which fine or any part thereof may be deducted from any salary then or at any time thereafter due to such offender), or to imprisonment with or without hard labour for any period not exceeding one month.

VII.—*Duties and Liabilities of Police Officers.*

51. Every police officer shall for all purposes in this Ordinance contained be considered to be always on duty, and shall have the powers of a police officer in every part of this Island. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences, and public nuisances; to preserve the peace; to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace; and promptly to obey and execute all orders and warrants lawfully issued and directed to him by any competent authority.

Duties of police officers.

52. It shall be the duty of every police officer, and he is hereby authorized, to arrest without warrant:

Police officers may arrest without warrant—

(1.) Any person who is charged on credible information, or whom he has reasonable ground to suspect of having been concerned in any grave, or forcible crime or outrage:

Person charged with or suspected of grave crime:

(2.) Any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that by reason of the recent commission of the offence a warrant could not have been issued:

Persons charged with aggravated assault recently committed:

(3.) Any person committing or attempting to commit any breach of the peace in his view, and who refuses to desist, on being required thereto:

Persons committing a breach of the peace:

(4.) Any person found injuring the public buildings, roads, tanks, and water channels, or committing any offence punishable by law: Provided always, that where such offence is of a slight and petty nature it shall not be necessary for the police officer to arrest, if, from the circumstances of the case, there is no reason to apprehend that the party will abscond:

Persons found injuring buildings, &c.:

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(5.) Any vagrant whom he shall find disturbing the public peace, or whom he shall have good reason to suspect of having committed or being about to commit a crime; any persons whose name or residence is unknown, or whom he may find by night lying or loitering in any highway, road, or other place, and who in either case is unable to give a satisfactory account of themselves:

Vagrants and suspicious persons:

(6.) Any person driving any cattle carelessly, recklessly, or furiously, or driving or conducting any vehicle at a pace other than a walk, unless such animal be so harnessed and bitted as to be perfectly under the control of the driver:

Persons riding or driving furiously, or without animals being properly harnessed:

(7.) Any person who assaults, resists, or obstructs such police officer in the execution of his duty, or aids and excites others so to do:

Persons assaulting police officer:

(8.) All persons who, having been in legal custody, shall have escaped therefrom:

Persons escaping from legal custody:

Persons charged refusing to give name.

(9.) All persons who are charged with having done any injury or damage to the person or property of another, and who refuse to give their name and residence, or who give one which there is ground to believe to be false, may be detained solely for the purpose of ascertaining such name and residence, with a view to future proceedings.

Certain duties of police officers.

Obstructions and nuisances on roads.

53. Any person who in any street or road, thoroughfare, or passage, within the limits of any town, commits any of the following offences, shall be liable to a fine not exceeding five pounds, or to imprisonment not exceeding three months, and it shall be lawful for any police officer to take into custody without a warrant any person who within his view commits any such offence:

Slaughtering cattle, furious riding, &c.

(1.) Any person who shall slaughter any cattle, or clean any carcase in the streets; any person riding any cattle carelessly, recklessly, and furiously, or training or breaking any horse or other cattle on or near any public road, to the danger of the passers-by:

Cruelty to animals.

(2.) Any person who wantonly or cruelly beats, abuses, or tortures any animal:

Obstructing passengers.

(3.) Any person who shall keep any cattle or conveyance of any kind in any road or street longer than is required for loading or unloading goods, or for taking up or setting down passengers; or who shall leave any cattle or conveyance in such a manner as to cause inconvenience or danger to the public:

Exposing goods for sale on roads.

(4.) Any person exposing any article or thing on the roads or streets, and which may obstruct passengers or frighten horses:

Throwing dirt into street.

(5.) Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any cow sheds, stable, or the like, within the bounds of any thoroughfare; or who causes any offensive matter to run from any house, factory, dung heap, or the like, into the street:

Being found drunk in any thoroughfare.

(6.) Any person found in any thoroughfare drunk and riotous, or incapable of taking care of himself:

Indecent exposure of person.

(7.) Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself in or by the side of or near any public street or thoroughfare; or by bathing or washing in any place not set apart for that purpose:

Neglect to protect dangerous places.

(8.) Any person who neglects to fence in, or duly to protect any well, tank, or other dangerous place or structure:

Driving cart, &c. without lanterns.

(9.) Any person who drives or leads any conveyance or cart after dark and before daylight without lighted lanterns.

Amends may be awarded for charges made on insufficient ground.

54. In every case in which any person shall be given in charge to a police officer on a false or frivolous charge, or in which a false or frivolous charge shall be made to a police officer against any person, or in which any information or complaint shall be

laid or made before a police officer, and shall not be further prosecuted, or in which if further presecuted it shall appear to the magistrate by whom the case is heard that there were no sufficient grounds for making the charge, such magistrate shall have the power to award a fine not exceeding five pounds, or imprisonment for a period not exceeding one month, or both; or to award such amends, not exceeding five pounds, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to such magistrate shall seem fit; and such amends shall be recoverable in the manner provided for the levy of fines.

Persons arrested without warrant to be taken to station house until brought before magistrate or bailed.

55. Every person taken into custody by any police officer without warrant (except persons detained for the mere purpose of ascertaining their name and residence), shall forthwith be delivered into the custody of the police officer in charge of a station house, in order that such person may be secured until he can be brought before a magistrate to be dealt with according to law, or may give bail for his appearance before a magistrate, if the officer in charge shall deem it prudent to take bail as herein-after mentioned. Provided always, that where bail is not taken, the prisoner shall be brought before a magistrate within twenty-four hours, unless circumstances render delay unavoidable.

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Releasing on bail.

56. Whenever any person shall be brought in custody without a warrant to any station house, at a time when he cannot at once be sent before a magistrate, and shall be charged with any bailable offence, or with any unbailable offence of which it shall appear to the chief superintendent or to any provincial or district inspector that the prisoner is falsely accused, it shall be lawful for such police officer to release the accused on bail, or on his own recognizance to appear before the magistrate when required.

Superior officer of police may take recognizance for appearance of prosecutor of witness.

57. It shall be lawful for such above-mentioned police officer to bind by recognizance any person to appear as prosecutor or as a witness before the magistrate by whom any grave charge is being or is about to be investigated; and if any such prosecutor or witness shall refuse to execute such recognizance it shall be competent to such officer to forward the person in custody to the proper court.

Condition of recognizance.

58. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before any magistrate at such time and place as may be required, and the time and place of appearance, and the sum thereby acknowledged, not exceeding one hundred pounds, shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall return the same forthwith to the magistrate before whom the party is bound to appear.

Enter drinking shops, &c., without a warrant.

59. It shall be lawful for any police officer without a warrant to enter and inspect all drinking shops, gaming houses, and other resorts of loose and disorderly characters, all premises of persons suspected of receiving stolen property, any locality, vessel, boat, or conveyance in any part whereof he shall have just cause to believe that crime has been or is about to be committed, or

which he reasonably suspects to contain stolen property and, then and there to take all necessary measures for the effectual prevention and detection of crime, and to take charge of all property reasonably suspected to have been stolen, and of all articles or things which may serve as evidence of the crime supposed to have been committed, and to take charge of all unclaimed property.

Inspection of weights and measures.

60. Every police officer, not below the grade of inspector, shall be an inspector of weights and measures, and may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measure, or instrument for weighing which he may have reason to believe is false.

Police officer not to receive complaints of petty offences.

61. No police officer shall receive any complaint of any petty offence, or take into his custody any person brought to him accused of such petty offences as trespass, assault, quarrelling, or the like; and it shall be lawful for any police officer to refuse to receive and act upon any charge of an offence of a grave character, if he shall, on inquiry made of the complainant alone, see good grounds for doubting its truth: Provided always, that if the charge be not of such a nature as under ordinary circumstances would justify the police officer in refusing to receive it, the particular reasons for refusing it are to be recorded by such officer at the time.

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Police officers may lay information, &c.

62. It shall be lawful for any police officer to lay any information before any magistrate, and to apply for summons, warrant, search warrant, or such other legal process as may by law issue, and may be expedient under the circumstances, against any person committing an offence against any law or enactment, or against any regulation for the protection of the revenue, or against any person committing or failing to remove any public nuisance or unwarrantable obstructions, keeping a disorderly house, harbouring thieves, disturbing the peace, obstructing the due course of justice, and the like; and to prosecute such offenders up to final judgment: Provided always, that any rewards, forfeitures, and penalties, or shares of rewards, forfeitures, or penalties which by law are payable to informers, and all costs of prosecution which may by any enactment be awarded to the prosecutor, shall be paid into a general fund for the reward of police officers, to be regulated in manner as the Governor shall from time to time direct.

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Criminal warrants and process.

63. All criminal warrants and process to be executed by any officer of the police force established within any town shall be directed to the chief superintendent or provincial inspector; and the superintendent or inspector to whom such warrant or process shall be directed may execute or cause the same to be executed by an officer of such force. Officers of police in rural districts shall be authorized and required to obey, serve, and execute every summons or warrant issued and endorsed by any justice of the district for which the officers have been appointed to act anywhere within the jurisdiction of such justice: Provided that if, in the execution of process, it shall be found necessary for the officer of the police employed to serve such process to go any distance beyond five miles, the person at whose instance the process

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is issued shall be bound to lodge with the justice at the time he applies for the process a sum sufficient to cover the officer's travelling allowances, at such rates as the Governor shall from time to time appoint.

Superintendent to suppress riots, &c, and enforce rules.

64. Every officer of police is hereby authorized and required to suppress and cause to be suppressed all tumults, riots, affrays, or breaches of the peace, all public nuisances and offences against the law, in all places within such town and limits, and to enforce all such rules and regulations as are hereby or may hereafter be made respecting the police of such town and limits.

In case of fire, &c., police officers to repair to the spot.

65. In all cases of fire or other calamity occurring within such town and limits police officers shall repair to the place where the same has occurred, for the protection of such persons and property as may be endangered thereby, and shall be authorized to call upon all persons to aid and assist them in that behalf; and every person so called upon who shall refuse or neglect to give such aid and assistance without good and sufficient excuse shall be guilty of an offence, and liable to any fine not exceeding one pound.

Persons receiving gold, &c., in pawn, and not showing it to police to be guilty of an offence, and in certain cases the goods pawned not recoverable.

66. All gold, silver, brass, and copper articles or jewels which are received in pawn within such town and limits shall be shown by the receiver to the principal officer of police of his division, and any such receiver who shall neglect to show such gold, silver, brass, and copper articles or jewels accordingly to such officer shall be guilty of an offence; and no person who shall give any such goods or jewels in pawn, unless under deed or other instrument duly executed, or unless such act be duly witnessed by such officer of police, who shall make a written memorandum of such transaction, to be carefully preserved by him, in order to be produced when called for, shall be entitled to recover back the articles so pawned.

Householder to give lists of inmates when required.

67. Every householder within such town and limits shall furnish the officer of police of his division, when required so to do by such officer under the order received to that effect from any justice of the peace having jurisdiction within such town and limits, or from the Chief Superintendent of Police, with a list of all the inmates of his house, distinguishing the members of his family from the servants or others resident therein; and he shall also if it shall be so directed in the order of the chief superintendent or justice of the peace, report any increase or diminution, or change in the same; and he shall not, having received such notice under such order, harbour a stranger without giving such notice thereof to the principal officer of police of his division; and every person failing in any duty imposed upon him by this clause shall be guilty of an offence, and be liable to any fine not exceeding five pounds.

Police officer may require assistance.

68. If any police officer shall at any time find himself unable to effect an arrest, it shall be lawful for him to require any and every person present to assist and aid him in making the arrest; and any person who shall refuse or neglect to comply with such requisition shall be liable to any fine not exceeding five pounds, or to imprisonment for a period not exceeding three months, or both.

Regulations of public procession, &c., and of carriages and persons at places of public resort.

69. Officers of police not below the grade of inspector may, as occasion requires, direct the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribe the routes by which and the times at which such processions may pass, and direct all crowds of twelve or more persons to disperse when they have reason to apprehend any breach of the peace. All officers of police shall and may keep order in the public roads, streets, thoroughfares, and landing places, and all other places of public resort, and prevent obstructions on the occasions of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, or thoroughfares, or landing places, may be thronged, or may be liable to be obstructed. They may also regulate the use of music in the streets, when the same shall be allowed. Every person opposing or not obeying the orders so given as aforesaid, or violating the conditions of any license granted by such superintendent or other officers for the use of such music, or for the assembling of any such body of persons, shall be liable to a fine not exceeding twenty pounds: Provided always, that nothing in this section contained shall be deemed to interfere with the general control of the magistrate over such matters.

Licenses for use of music in streets.

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Penalties for neglect of duty, &c.

70. Every police officer who shall be guilty of any violation of duty or wilful breach or neglect of any regulations and lawful orders of other competent authority, and not punishable under section 50 of this Ordinance, or who shall cease to perform the duties of his office without leave, or without having given two months' notice, as provided by this enactment, or engage without authority in any employment other than his police duty, or who shall be guilty of prevarication in any judicial trial, or who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual, or who shall knowingly and wilfully, and with evil intent, exceed his powers, or who shall be guilty of any wilful culpable neglect of duty in not bringing any person who shall be in his custody without a warrant before a magisterial officer as herein-before provided, or who shall allow any person in his custody to escape, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or both.

Penalty for receiving unauthorized fees, &c.

71. Any police officer who shall on any pretext or under any circumstance, directly or indirectly, collect or receive any fee, gratuity, diet money, allowance, or recompense, other than he may be duly authorized by the chief superintendent or other officer acting under his order to collect or receive, shall be liable to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, not exceeding three months, or both.

Penalty for extortion, &c.

72. Any police officer who shall directly or indirectly extort, exact, seek, or obtain any bribe or unauthorized reward or consideration, by any threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he

is bound to afford or to communicate, or who shall connive at the escape of any person in his custody, or who shall attempt to commit any of the said offences, or shall be guilty of cowardice, shall be liable to a fine not exceeding twelve months' pay, or to imprisonment, with or without hard labour, not exceeding twelve months, or both.

73. Every person not being, or having ceased to be, a duly enrolled police officer, who shall unlawfully assume any function or power belonging to the police, and who shall not forthwith deliver up all the clothing, accoutrements, and appointments, and other necessaries which may have been supplied to him in the execution of his duty; or if any person shall wilfully injure any such clothing or other article so as to render the same of less value; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the police force, without being able to account satisfactorily for his possession thereof; or who shall put on the dress of any police officer, or any dress designed to represent it or to be taken for it; or who shall otherwise personate the character or act the part of any police officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months, or both.

Unlawful assumption of police function, personation of police, &c.

74. It shall be lawful for any officer of police not below the grade of inspector to give order either verbally or by notice in writing to any person causing any public nuisance mentioned in this Ordinance to abate and remove the same; and if any person to whom such order or notice shall have been given shall refuse or neglect to comply with the same in a reasonable time, or if there be any doubt as to who is the proper person to whom such order or notice should be given, it shall be lawful for such officer to cause any such public nuisance to be forthwith abated or removed, and for that purpose it shall be lawful for him, where necessary, to enter into or upon any house, garden, enclosure, land, or other premises, and to cause to enter therein or thereupon such persons, instruments, and things as may be necessary, and to proceed to do or cause to be done therein or thereupon all such things as may be necessary for such abatement or removal; and upon the officer certifying to the proper police magistrate the costs which have been *bonâ fide* incurred in effecting such abatement or removal, such magistrate shall summon the party or parties on account of whose non-compliance with any such order or notice such costs were incurred to appear before him on a certain day, then and there to make payment of such costs where it shall appear after due investigation that such costs were properly incurred; and if such party or parties shall refuse or fail to make such payment, the police magistrate shall proceed to recover such payment in such and the same manner as he would proceed to recover any fine or penalty incurred under any sentence of the court in which he presides: Provided always, that nothing in this Ordinance contained shall be construed to limit or interfere

Nuisances how to be removed and abated.

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with in any way the common law right of any individual to abate any nuisance.

Penalty for obstructing a police officer in the execution of his duty.

75. If any person shall assault or resist or obstruct any police officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any police officer, he shall, on conviction of such offence before any magisterial officer, be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months, or both.

Tavern keeper harbouring police officer on duty.

76. If any keeper or person in charge of any arrack tavern or other place for the sale of liquors within any such town and limits, shall permit any officer of police whom such keeper or person shall know to be at such time on duty to drink any spirits, or to remain, loiter, or conceal himself in such tavern or place, or upon any premises belonging or adjacent thereto, every such keeper or person shall be guilty of an offence, and be liable to any fine not exceeding five pounds.

Penalty on obstructing anyone acting under orders of police, &c.

77. If any person shall resist or obstruct any person duly acting under the orders of any superintendent of police, or any member of the committee of assessors, or any person duly acting on behalf of any such committee, or of any member thereof, or any Government Agent, or any person acting on behalf of any Government Agent, in the execution of any duty or authority imposed upon or vested in him by this Ordinance, every such person shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Plea that act was done under a warrant.

78. When any action, prosecution, or proceeding shall be brought against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of warrant issued by a magisterial officer; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by such magisterial officer; and the defendant shall thereupon be entitled to decree in his favour, notwithstanding any defect of jurisdiction in such magisterial officer, and no proof of the signature of such official shall be necessary, unless the court shall see reason to doubt its being genuine: Provided always, that any remedy which the party may have against the authority issuing such warrant shall remain entire.

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Limitation of action.

79. All actions and prosecutions against any person which may be lawfully brought for anything done or intended to be done under the provisions of this Ordinance, or under the general police powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the principal officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient

amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant.

VII.—*General Provisions.*

Wells to be surrounded with wall two feet high.

80. All persons who shall make or cause to be made or have in rent or possess any well within any town and limits, and shall not surround the same with a wall two feet at least in height, and keep such wall of that height and in good and sufficient repair, shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

No cart to remain in the street, &c., at night, under a penalty upon owner.

81. No cart of any description whatsoever shall be left or permitted to remain in any street, way, or avenue within any town and limits upon any pretence whatever without the permission of the principal officer of police, except for such time as shall be necessary for the purposes only of loading or unloading, or except in such places as shall at any time be appointed and notified by such officer; and any owner or person in charge of any cart so left or permitted to remain as aforesaid shall be guilty of an offence for and be liable to any fine not exceeding two pounds.

No carriage to obstruct any street.

82. In no case shall any description of carriage be permitted to obstruct the passage of any street, way, or avenue, nor any two or more carriages of any description to stand abreast in any street, way, or avenue, within such town and limits, and the owner or person driving, loading, or in charge of any such carriage not removing the same immediately when ordered or requested so to do by any officer of police, or by any private person, shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

Penalty on furious or careless riding or driving.

83. All persons who shall drive or conduct any carriage or other vehicle in a careless, reckless, or violent manner, or who shall ride upon any carriage or other vehicle drawn by horses, bullocks, or other cattle at a pace other than a walk, unless the animal driven be so harnessed and bitted as to be perfectly under the control of the driver, or some person on foot able to guide and control the same, or who shall furiously ride or drive, or carelessly lead or let loose any horse, bullock, or other animal in any street, to the danger and terror of passengers, or shall employ any incompetent person to drive or conduct any carriage or other vehicle, or to lead any horse, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Elephants not to pass along the streets except at certain times.

84. No elephant shall be permitted to pass along any street, road, or thoroughfare within any town and limits except between the hours of two and eight in the morning; and every person riding, driving, or conducting any elephant, or causing any elephant to be ridden, driven, or conducted along any such street, road, or thoroughfare, except between such hours as aforesaid, shall be guilty of an offence, and shall be liable to a fine not exceeding five pounds: Provided always, that nothing in this clause contained shall apply to the employment of elephants in any

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town or limits under a written license granted by the authority of the Governor.

Rules to be observed by carriages passing each other.

85. When a wheeled carriage shall pass another wheeled carriage going in the same or coming from an opposite direction, it shall pass on the off or right side of such other carriage; and every person driving or conducting a wheeled carriage who shall wilfully or negligently pass any other wheeled carriage on the wrong side, or prevent any other wheeled carriage from passing on the proper side, shall be guilty of an offence, and liable to any fine not exceeding one pound.

Persons offending against the 81st, 82nd, 83rd, 84th, and 85th clauses of this Ordinance may be seized.

86. It shall be lawful for any person within whose view any of the offences specified in the 81st, 82nd, 83rd, 84th, and 85th clauses of this Ordinance shall have been committed, to seize and take the party having so offended to the nearest officer of police to be dealt with according to law, if such party shall refuse to give to such person on demand full information respecting his name, occupation, and residence; and where such offender cannot be so seized or traced, but the carriage, cart, or animal in respect of which the offence in question was committed can be identified, it shall be lawful for any competent court to issue a warrant for the seizure of such carriage, cart, or animal, together with a summons to the owner thereof to appear before such court on a certain day to be mentioned in such summons; and if such owner shall fail to attend in pursuance thereof without good and sufficient excuse, or if attending and not being himself the offender he shall refuse to give all information in his power respecting the party by whom such offence was committed, such owner shall be guilty of an offence, and be liable to the same punishment to which the party so having offended as aforesaid would have been liable on conviction thereof.

Penalty on persons forming part of procession or assemblies carrying swords or other offensive weapons.

87. If any person forming part of any procession, or of any assembly of more than twelve persons, except under military regulation or some regulation of police, which shall take place or be collected for some particular purpose anywhere within any town and limits, shall have about him or have placed anywhere near him so as to be capable of being used by him while forming part of such procession or of such assembly, any gun, pistol, sword, creese, club, or other offensive weapon, every such person shall be guilty of an offence, and be liable to any fine not exceeding twenty pounds, or to imprisonment at hard labour for any period not exceeding twelve months; and every person who shall have formed part of any such procession or assembly, and who it shall be proved to the satisfaction of the court before whom he shall be brought was aware that any such offensive weapon was carried or placed near any person forming part of such procession or assembly as aforesaid, and did not give information thereof to some officer of police, shall be guilty of an offence, and be liable to any fine not exceeding ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Disturbance of the congregation.

88. All persons who within any town and limits shall publicly pursue any trade, business, or occupation on Sunday, within hearing of the congregation of any church, chapel, meeting-house, or

authorized place of Christian worship, and during the hours of divine service therein, shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

89. Every person who shall under any pretence whatever either within or from without any place of Christian worship disturb the performance of public worship therein, or in any way during such performance molest any of the congregation, shall be guilty of an offence, and be liable to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Penalty on disturbing Christian worship.

90. All persons who shall at any time within any town and limits, either within or without any house or building, beat drums or tom-toms, or have or use any other music calculated to frighten horses, or who shall make any noise in the night so as to disturb the repose of the inhabitants, or who shall at any time discharge fire-arms, crackers, or fireworks, except under military regulation, or unless they shall have obtained a license from the police magistrate of the district, or from the chief superintendent of police or provincial inspector, who are hereby authorized to grant the same when it shall to them appear expedient, or who shall play at any games in or near any street, road, or thoroughfare, or fly any kite, or throw any stone or other missile, or wilfully or negligently make any noise, or do any act or thing in a manner calculated to terrify or injure any passenger, horse, or cattle, or to injure any property, shall be guilty of an offence, and be liable to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Beating of tom-tom, &c., forbidden.

91. Any person who shall spread false reports with the view to alarm the inhabitants of any place within this Island and create a panic shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months; and if he shall be convicted a second time, or shall persist in the offence after warning to desist, he shall be liable to corporal punishment not exceeding twenty lashes.

False reports to alarm people and create a panic.

92. All persons who shall within any town or limits lay or cause to be laid or cast any dirt, rubbish, or any other matter of annoyance or obstruction on any road, street, canal, quay, wharf, or thoroughfare, or into any sewer, drain, or watercourse, or shall fasten any scaffolding, or place any bricks, cabook, chunam, or other materials in or upon any such road, street, canal, or thoroughfare, whereby any nuisance or obstruction may be occasioned, shall be guilty of an offence, and shall be liable to any fine not exceeding two pounds.

Persons laying any rubbish or building materials in thoroughfare guilty of an offence.

93. Every person who shall expose goods for sale, or who shall carry on any trade or business in any road, street, canal, or public thoroughfare within any such town and limits so as to cause obstruction therein, except in such place or places as shall be appointed for that purpose by the chief superintendent of police or provincial inspector, or, where there is a municipality, by the municipal council or any of its officers, shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

Exposure of goods for sale.

Persons to keep the space opposite their houses clean.

94. No filth, or dirt, or dead or disabled animal, shall be cast or allowed to remain in any street, road, canal, or other thoroughfare within any such town and limits, and every inhabitant within any such town and limits shall keep the space and street or road and all surface drains, ditches, and gutters, before his house clean, and the owners or occupiers of all private avenues, passages, yards, and ways, and all slaughter-houses, shall keep the same clean, and shall remove the offal to such place as the principal police officer of the division may point out under the directions of the Superintendent of Police; and any person wilfully offending against this clause shall be guilty of an offence, and liable to any fine not exceeding two pounds.

Common nuisance.

95. It shall be lawful for the Chief Superintendent of Police, or where there is a municipality for the municipal council or its officers, to notify from time to time in as public a manner as he conveniently can, the place or places in any such town and limits within which persons shall not be allowed to ease themselves under the penalty herein-after mentioned; and every person who shall, after such notification shall have been given, ease himself in any place comprehended in such notification, except in some house, outhouse, or enclosed place, with the leave of the occupant thereof, shall be guilty of an offence, and be liable to any penalty not exceeding one pound: Provided always, that nothing in this clause contained shall be construed into a declaration that persons cannot commit a nuisance by easing themselves in such places as are not comprehended in such notification as aforesaid.

Persons wilfully injuring any public building to be guilty of an offence.

96. Any person who shall wilfully damage any public building, wall, or other public property within such town and limits shall be guilty of an offence, and be liable to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Houses to be surrounded with walls or fences, and gardens kept clear.

97. All houses and gardens within such parts of any of the said towns and limits as the Governor shall from time to time direct by proclamation to be for that purpose issued in the "Government Gazette" shall, within six months after such proclamation shall have been so issued, be surrounded with walls or good fences, and be cleared and kept clean of brush and underwood; and every person neglecting within such time so to surround his house and garden, or to clear and to keep the same clear of brush and underwood, shall be guilty of an offence, and be liable to any fine not exceeding two pounds: Provided always, that the proprietors of adjoining lands which shall require to be fenced or walled under the provisions of this clause shall be liable to make and keep in repair each one half of such fence or wall, except where by any law or custom such liability shall be otherwise determined.

Proviso.

Cases may be tried before police courts, though otherwise out of their jurisdiction.

98. Whereas the punishment assigned to certain offenders under this Ordinance are beyond the jurisdiction of police courts, but it would be frequently more advantageous that such offences should be brought to trial before such courts in order that the punishment of offenders may be more prompt, even though it should be less severe: It is therefore enacted, that in case of any

person committing an offence under this Ordinance, and which offence could not otherwise be cognizable by a police court by reason of the punishment to which the same is subject, a certificate shall be presented to any police court, signed by the Queen's Advocate, or by some competent Deputy Queen's Advocate, to the effect that such officer is content that such offence or act shall be prosecuted before such court, it shall be competent to such court to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as police courts are empowered by law to award.

Punishment of children for breach of Ordinance.

99. Whereas many of the offences declared by this Ordinance to be punishable by fine or imprisonment may be committed by children whom it would not be expedient to punish in such manner: It is therefore hereby enacted that it shall be competent to any police magistrate before whom any child shall be convicted of any offence punishable by fine or imprisonment under the provisions of this Ordinance, to order the moderate chastisement of such child instead of subjecting him to any fine or imprisonment.

Power to prosecute not affected.

100. Nothing contained in this Ordinance shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Ordinance, or to prevent any person from being liable under any other law to any other or higher penalty or punishment than is provided for such offence by this Ordinance: Provided always, that no person shall be punished twice for the same offence.

Proviso.

SCHEDULE.

B.

SECTION 4.

Jaffna: Regulation No. 6 of 1813, entitled "Regulation for the better police of the towns and forts of Jaffnapatam and Point de Galle and their gravets."

Manaar: Regulation No. 6 of 1815, entitled "Regulation for better police for the town, fort of Manaar, and its gravets."

C.

SECTION 40.

To

Take notice that in pursuance of the Ordinance No. of 186 , the situated at ( ) the property of has been assessed at the annual value of £ and that the tax for each quarter due on the day of the day of the day of and the day of amounts to the sum of

You are hereby required therefore to pay the said amount of £ into the office of within one month after service hereof, and thereafter within one month after the same shall become due, or in default thereof it will be recovered in due course of law.

Signed this day of 186

Government Agent.

A receipt, signed by the Government Agent or his assistant, will be delivered on payment of the sums hereby demanded.

Received this day of on account of the Government of Ceylon, the sum of £ being the quarter's tax due on the of for the

Government Agent.

D.

SECTION 48.

Certificate of Sale.

Whereas of was rated (*or* taxed, *as the case may be*) under "The Police Ordinance, 1865," and became liable in the sum of £ inclusive of costs, and made default in the payment thereof: And whereas warrant of distress was issued in conformity with the said Ordinance, and the property of the said to wit (*here describe the property*) was sold on the day of and the same was purchased by for the sum of £ which has been duly paid by the said

Now, know ye that I the chairman of the said municipal council, by virtue of the powers in me vested by the said Ordinance, do hereby certify that such sale and purchase have duly taken place, and that the property above described is and shall henceforward be vested in the said his heirs, executors, administrators, and assigns for ever.

Given under my hand at this day of

A.B.

Government Agent.

18th November 1865.

160.

No. 17 OF 1865.

An Ordinance for establishing Municipal Councils in this Island.

WHEREAS it is expedient that provisions should be made for the constitution and establishment of municipal councils in this Island, for the purpose of enabling the inhabitants thereof to regulate certain matters and things of a local nature: It is enacted as follows: Preamble.

I.—*Preliminary.*

1. This Ordinance may be cited for all purposes as "The Municipal Councils Ordinance, 1865." Title.

2. Has had its effect.

3. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction: Interpretation clause.

The expression "Government Agent" shall include the Assistant Government Agent of the province, or, where there is any Assistant Government Agent for the district in which any proceeding contemplated by this Ordinance is taken, such Assistant Government Agent.

The word "street" shall mean any road, street, square, court, alley, or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public bridge or causeway within the town.

The word "bridge" shall include all bridges, sluices, dams, and bunds.

The word "owner" shall mean the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would receive the same if such land or premises were let to a tenant: Provided that no person receiving the rent of land or premises as agent for another person shall be liable to do anything by this Ordinance required to be done by the owner of such land or premises, unless he have sufficient funds of the owner to pay for the same; nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of the owner sufficient to defray the expense of doing the act required. Proviso

The word "person" shall include any association or body of persons, whether incorporated or not.

II.—*Proceedings for the Election of Councils.*

4. For the purposes of this Ordinance, the towns of Colombo and Kandy are hereby created municipalities, and it shall be lawful for the Governor, with the advice and consent of the Executive Colombo and Kandy created municipalities.

Power to create other towns into municipalities.

Council, on the application of a reasonable number of the inhabitants of any town, or, if to the Governor and Council it shall appear expedient so to do, without such application, by proclamations to be for that purpose published in the "Government Gazette," to create municipalities in any other town in this Colony; and thereupon the several provisions of this Ordinance shall apply and extend to and may be enforced within any such town as fully to all intents and purposes as if such town had been created a municipality by this Ordinance.

To define limits of towns and to divide them into districts.

5. It shall be lawful for the Governor, with the advice and consent of the Executive Council, by proclamations in the "Government Gazette," to define for the purposes of this Ordinance the limits of the towns of Colombo and Kandy, and of such other towns as may hereafter be created municipalities, and to divide each town into districts, and such limits or divisions from time to time by proclamation to alter or vary.

Meeting to elect a committee to prepare lists of householders and councillors.

6. Within fourteen days from the publication of the proclamations in the preceding section mentioned, the Government Agent to whose province or district any town which shall have been so defined and divided belongs, shall, by notices to be published in the "Government Gazette," and in such other manner as shall appear to him best adapted for giving the greatest publicity thereto, appoint a day within fourteen days from the date of the said notice and place for holding a meeting, in order to elect and appoint a committee of seven persons out of resident householders qualified in the manner prescribed in the 7th section to frame and draw out a list of all persons in the said municipality who according to the qualification prescribed in the 14th section, are eligible to be chosen as councillors for the different districts thereof respectively, and another list of all persons who, according to the qualification prescribed in the 7th section, are qualified as resident householders of the different districts respectively.

Who shall be entitled to vote.

7. Every meeting so convened shall be held at the time and place appointed, in the presence of the Government Agent, and at every such meeting every occupier of any house within the limits of the town so defined as aforesaid, either as proprietor or tenant, of the yearly value or rent of not less than ten pounds sterling, or who shall be the husband of a wife or the eldest son of a widow who is the proprietor or tenant of any such house, and who shall be personally present, shall be deemed a resident householder and shall be entitled to vote: Provided that when any such house as aforesaid shall be jointly occupied by more persons than one, as proprietors or tenants, so many of such joint occupiers as pay each ten pounds or more for their joint occupation shall be entitled to vote. If the yearly rent of the entire house be not worth more than ten pounds, the joint occupiers will elect among themselves one to vote for the rest, and if they cannot agree in electing one they shall not be entitled to vote at all: Provided further that no female and no male under the age of twenty-one years shall be competent to vote at any meeting or to be elected to any office.

Proviso.

Further proviso.

Chairman of meeting.

8. The Government Agent shall be the chairman of the meeting in the preceding section mentioned; and if any question shall

arise as to the right, age, and qualification of any person present at such meeting to speak or vote thereat, the chairman shall summarily inquire into and finally determine the same, and his decision thereupon shall for the purpose of the said meeting, but no further, be final and conclusive; and in case of an equality of votes upon any decision to be come to at such meeting, the chairman shall be entitled to give a casting vote: Provided that if the votes cannot all be taken in one meeting, and the work herein prescribed therefor completed, the Government Agent may adjourn the meeting once or oftener until such votes can all be taken and such work completed.

Proviso.

9. The resident householders present at the meeting shall by a majority of votes elect seven persons to prepare the lists in the sixth section mentioned. If the resident householders refuse to elect a committee, or if from any cause no committee be elected by them, it shall be lawful for the Government Agent to name a committee of three or more persons to prepare such lists.

Proceedings at meeting.

10. The committee so appointed, or a majority of them, shall, with the Government Agent, proceed to prepare the lists as aforesaid, and shall complete them within fourteen days after their appointment. If the committee refuse to act or fail to prepare the lists within the time it shall be lawful for the Government Agent to prepare such lists. The Government Agent shall cause the lists, or a fair copy thereof, to be kept open for inspection at the cutcherry for a period of fourteen days at the least, and shall notify in the "Government Gazette" that the lists are open for inspection.

Committee to prepare lists.

11. It shall be lawful for any resident householder at any time within fourteen days from the date of the publication of such notice in the "Gazette," as in the preceding section mentioned, to claim before the said Government Agent, upon not less than twenty-four hours' notice given to the said committee, or to the Government Agent, that the name of himself or of any other resident householder qualified and eligible to be placed upon the lists aforesaid respectively shall be placed upon the same, or to claim that the name of any person placed upon either of the said lists shall be erased therefrom; and the said Government Agent is hereby empowered to hear and determine any such claim and to administer an oath to any party whom he shall think fit to examine, and to alter and amend the said lists, or either of them, as he shall see occasion; but such Government Agent shall not erase the name of any person from either of the said lists until such person shall have received at least forty-eight hours' notice of the investigation into his qualification, and shall have been fully heard thereat, should he so desire.

Objections to lists to be decided by the Government Agent.

12. At the expiration of fourteen days from the time of the publication of such notice in the "Gazette," as in the 10th section mentioned, the said Government Agent shall make out and preserve an amended list of the persons eligible to be chosen councillors for each respective district, and another amended list of the persons qualified to act as resident householders within each district; and the fact that the name of any person is to be

Amended lists to be then prepared by the Government Agent, and to be conclusive evidence of qualification.

found upon either of the said amended lists respectively shall be final and conclusive evidence of the eligibility of such person to be elected a councillor or to act as a resident householder, as the case may be, at any time until the new lists herein-after mentioned and directed shall have been framed and completed in the manner herein-after stated; and no person whose name shall not be found upon the said amended lists, so long as the same shall not have been replaced by the new lists herein-after mentioned, shall be taken to be qualified either to be chosen a councillor, or to act as a resident householder, as the case may be.

Meetings for the election of councillors.

13. So soon as such amended lists in the preceding section mentioned shall have been made out as aforesaid, the Government Agent shall and he is hereby required, by a public notice of not less than fourteen days, to call separate meetings of all the resident householders of each of the said districts respectively, to be holden at the cutcherry or at some other fit and convenient place or places within the municipality, for the election of one councillor for every such district.

Qualification of a councillor.

14. Any resident householder of the said municipality being possessed of landed property situated within any district thereof, of the value of not less than five hundred pounds sterling, either in his own right or in right of his wife, or who is the occupier of any house within the municipality, either as proprietor or tenant, of the yearly value or rent of not less than fifty pounds sterling, shall be eligible to be elected a councillor for such district for the purposes of this Ordinance: Provided that the same person shall not be competent to be the councillor for two or more districts; and in the event of any person being chosen to be the councillor for two or more districts, he shall forthwith notify to the Government Agent for which district he proposes to act as councillor; and the person who at the election had the next greatest number of votes shall thereupon be returned as the councillor of the district for which such other party has declined to act.

Proviso.

Persons disqualified from being elected councillor.

15. No person being an officer in Her Majesty's army or navy, on full pay or in active employment as such officer, shall be eligible to be elected a councillor of the municipality.

No councillor to receive salary or fee.

16. No person elected and appointed a councillor under this Ordinance shall have or receive any salary, or shall exact, take, or accept any fee or reward whatsoever for or on account of anything done or to be done by him, by virtue of this Ordinance, or on any account whatsoever relative to this Ordinance.

Mode of proceeding at the election of councillor.

17. The Government Agent, or some one appointed by him in writing, shall preside at every meeting for the election of any councillor, and every candidate shall be proposed at the said meeting by some person duly qualified to vote thereat, and shall be seconded by some other such qualified person; every vote which at any such election shall be given for any person who has not been so proposed and seconded shall not be taken into account in such election, but shall be wholly void and ineffectual, and the person having the greatest number of votes shall be elected the councillor: Provided that when by reason of any two or more candidates having obtained an equal number of votes

Proviso.

any voting shall be indecisive as to them, such candidates shall forthwith be voted for a second time, and he who shall obtain the greatest number of votes shall be elected the councillor; but if such second voting shall also be rendered indecisive by reason of such equality of votes, the chairman of the meeting shall, in addition to his original vote, decide the election by his casting vote.

Resident householder may vote for more than one district.

18. At every election of a councillor for any particular district, every resident householder who shall be found upon the list herein-before mentioned as possessing a qualification as such resident householder within such district shall be competent to vote at such election, although such resident householder may be found upon the said list as qualified to vote in some other district or districts by virtue of some other property therein, and may have exercised, or may claim to exercise, his right of voting therein.

Councillors' term of office.

19. The first councillors elected under this Ordinance shall go out of office on the last day of December of the second year from their election, and in place of such councillors so going out of office a like number of other councillors, to be elected as hereinafter provided, shall come into office, and remain in office during the next ensuing two years, and at the expiration of such period of two years shall in like manner go out of office, and be succeeded by other councillors for a like term of two years, and so on during the continuance of this Ordinance: Provided that any of such outgoing councillors shall be re-eligible and may be re-elected, and in such case continue to act and remain in office, anything herein contained to the contrary notwithstanding.

Proviso.

Meeting for election of intending councillors.

20. On the first day of December which shall precede the day on which any such term of two years shall expire, unless such day be Sunday, and then on the Monday following, a meeting shall be holden for the election of councillors for the two years next succeeding, reckoned from the first day of January next following the day of such election, and such election shall proceed in such manner as by the 17th section of this Ordinance is provided for the election of the first councillors under this Ordinance.

Vacancies how to be filled up.

21. Any councillor who shall cease to possess any of the qualifications in the 14th section required for the eligibility of councillors, or shall be absent from the Colony for more than three months at one time, or shall become bankrupt or insolvent, or shall become incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease, or who shall accept any office of emolument under the appointment of the councillors relating to the municipality, shall *ipso facto* vacate his office; and in case any person elected a councillor shall die or become disqualified or vacate his office in manner aforesaid, or shall resign or refuse to accept the office of a councillor, or in case of any casual vacancy happening in any manner whatever in such office, the Government Agent shall forthwith call a meeting of householders as aforesaid for the purpose of filling up such vacancy, and the person then elected shall serve until the next general election of councillors.

How irregularity in the

22. In case it shall happen that by reason of any failure or neglect, or any other cause whatever, any meeting for the election

holding of meetings for election of councillors is to be remedied.

of a councillor shall not be duly and regularly holden, or that at any such meeting a councillor shall not be duly elected, then and in every such case the said Government Agent shall, as soon as any such event shall have been notified to him, by a notice of not less than seven or more than fourteen days, call a meeting of the resident householders of such district for the purpose of electing a councillor in the same manner as is herein-before directed with respect to the first election of councillors under the provisions of this Ordinance. No notice can be given or objection entertained after the lapse of fourteen days. If the districts, or any of them, shall fail or neglect to appoint councillors at such second meeting, the councillors to be appointed by the Governor as herein-after provided shall, with those elected, if any, form the municipal council of the town for which they are so appointed, and shall exercise the powers conferred and be subject to the liabilities imposed by this Ordinance. The councillor who shall have been in office next before the time when another shall have been elected shall remain in office until his successor shall, in the manner herein provided, have been so duly elected, upon which the former shall, provided his regular term of service shall have expired, forthwith go out of office and be succeeded by the person newly chosen.

III.—*Formation of Municipal Councils.*

Appointment by Governor of councillors.

23. It shall be lawful for the Governor to appoint any number of councillors, whether or not holding office, not exceeding half the number of the districts into which the town shall have been divided. The Government Agent of the province or the Assistant Government Agent appointed by the Governor for the district within which the town is situate, shall if he be resident within such town always be one of such councillors. If the number of such districts be not even, the Governor may appoint half of the even number next higher than the odd number, and the persons so elected (if any) and appointed shall form the municipal council of the town defined as aforesaid.

IV.—*Executive Officers of Municipal Councils.*

Office for municipal councils.

24. The Government Agent's office shall be the office for the transaction of business connected with the municipal councils: Provided that if there be no such office in any town where a municipal council is formed, or if it is not convenient to use such office, it shall be lawful for the councillors to procure any other suitable place for the purpose.

Treasurer.

25. The Government Agent shall also act as treasurer of the municipal council, and if there be no Government Agent in any town where a municipal council is formed, it shall be lawful for the council to appoint one of their body to act as treasurer.

Other officers.

26. The municipal councils may, acting in pursuance of bye-laws to that effect, from time to time appoint such persons as secretary, officers of health, inspectors of nuisances, and other officers and servants as shall be specified in such byelaws, and

remove them and appoint others in their stead, as to them shall appear necessary for the proper carrying out of the provisions of this Ordinance.

27. The municipal councils may award to the officers so appointed and to the treasurer (where such office is not held by the Government Agent) such salary or remuneration as to them shall appear reasonable, and shall be empowered to require any of the officers (excepting where the Government Agent acts as such), to give such security as to them shall appear necessary. Salary to be awarded to officers, and security to be given by them.

28. No municipal councillor or other officer or servant appointed under this Ordinance shall be in anywise concerned or interested in any work or contract made with or executed for the councils; and if any such officer or servant be so concerned or interested he shall be incapable of holding his present or any future office or employment under the municipal council, and shall, in addition, forfeit and pay to such council for the benefit of the municipal fund the sum of one hundred pounds sterling: Provided that no person being merely a shareholder of any joint stock company shall be prevented from being employed as municipal councillor, officer, or servant by reason of any contract between such company and the council, or of any work executed by such company. Officers not to be concerned in contracts made with the councils. Proviso.

V.—*Meetings of Municipal Councils.*

29. Meetings of the municipal council shall be held for the dispatch of business upon such day or days in every month as shall be fixed by any general byelaw made by the council as herein-after provided: Provided that if any two councillors shall call upon the chairman by writing to convene a special meeting of such council, it shall be the duty of the chairman to convene such meeting within five days from the receipt of such requisition; and two days' notice of the day appointed by him for the same shall be given by the secretary to each member thereof. Meetings when to be held. Proviso.

30. The Government Agent of the province or district shall be the chairman of such council and preside at every meeting thereof. If the municipal council be formed in any town in which the Government Agent of the province or the Assistant Government Agent appointed by the Governor for the district (not any Assistant Government Agent of the province or any mere office assistant) is not resident, or if such Government Agent of the province or Assistant Government Agent of the district, being resident, is absent on the occasion of any meeting being held, it shall be competent to the councillors present to elect one of their body to act as such. Chairman.

31. All acts whatsoever authorized or required by virtue of this Ordinance to be done by any municipal council may and shall be done and decided by the majority of the councillors present at any meeting thereof duly convened in manner herein provided, such members not being less than three of the whole number of the council, unless where, by any of the provisions of this Ordinance, one councillor is expressly empowered to do and decide any act, matter, or thing whatsoever: Provided that when the votes of the councillors present in regard to any question shall be equally Majority to decide. Quorum. Casting vote.

divided, the chairman shall, besides his vote as a member, have a casting vote.

VI.—*Bench of Magistrates.*

Three or more councillors to have magisterial powers.

32. Any three or more councillors shall form a bench of magistrates to sit in open court for the trial of all crimes and offences committed within the municipality and cognizable by police courts in this Island according to law, and shall have jurisdiction accordingly to try and determine such offences and to award such punishment to the offenders as is authorized by law: Provided that no councillor shall commence to act as magistrate unless he shall have taken the oaths of office and allegiance in the form in the Schedule A. hereunto annexed before a justice of the peace, and such oaths shall be enrolled as of record in the office of the municipal council, and a copy of such enrolment shall be forthwith transmitted to the registrar of the supreme court to be filed of record in that court.

Oaths.

Division of opinion among councillors forming the bench.

33. If the councillors forming the bench as aforesaid shall be equally divided in opinion on any case or question arising before them, they shall call in another councillor, or, should all the councillors have joined to form the bench on that occasion, the district judge of the district, and the opinion of such additional court or judge (who is hereby required to assist on such occasions) shall be taken as the decision of the bench on such case or question.

Appeal and mode of proceeding

34. The acts and orders of such bench of magistrates shall be subject to appeal and to all the rules and regulations prescribed in respect of police courts, and all their proceedings and appeals therefrom shall be subject to the like rules and regulations.

VII.—*Byelaws.*

Municipal councils to frame byelaws

35. It shall be lawful for each municipal council to make such municipal byelaws as it may deem expedient for any of the following purposes:

(1.) For regulating the time and place of its own meetings, and the order to be observed thereat:
(2.) For the classification and valuation of buildings and lands within the municipal town:
(3.) For making, repairing, cleaning, watering, and lighting the streets, roads, canals, and bridges:
(4.) For regulating weights and measures:
(5.) For the assize of bread:
(6.) For the establishment and regulation of markets:
(7.) For the establishment and regulation of slaughter-houses:
(8.) For the seizure and forfeiture of unwholesome flesh, fish, or other provisions introduced into the town or exposed for sale therein:
(9.) For preventing and abating public nuisances in the town:
(10.) For the suppression of cruelty to animals:
(11.) For the conservancy and improvement of the town:
(12.) For collecting and levying the rates and taxes imposed by this Ordinance:
(13.) For every other purpose which may by the councillors be deemed necessary for the duly carrying out of the provisions of this Ordinance.

36. The byelaws so prepared by each council shall be forthwith transmitted to the Governor for the approval, amendment, or disallowance thereof of the said Governor, by and with the advice of the Executive Council, and in case such byelaws shall be approved notice of such approval shall be given by proclamation to be made in that behalf, and the said byelaws shall be published in the "Government Gazette," and shall thereupon become as legal, valid, and effectual as if the same had been inserted herein; and in case the said byelaws are amended by the Governor, by and with the advice of the Executive Council, the byelaws so amended shall forthwith be transmitted to the municipal council, who shall determine whether the said byelaws, so amended, shall be adopted or not; and if the byelaws so amended be adopted the said council shall forthwith communicate such adoption to the Governor, who shall forthwith give notice thereof by proclamation and cause the same, as amended, to be published in the "Government Gazette," and upon such publication the same shall become as legal, valid, and effectual as if the same had been inserted herein: Provided that nothing contained in such byelaws shall be repugnant to or inconsistent with the true intent and meaning of the provisions of this Ordinance.

Byelaws how to be made valid.

Proviso.

37. If the said byelaws when submitted to the Governor shall be disallowed by him, by and with the advice of the Executive Council, or if such byelaws, after being amended by the Governor as aforesaid, shall not be adopted by the council as aforesaid, then and in every such case such council shall frame other municipal byelaws, and the like proceedings shall be taken in regard to such new byelaws as by the 36th section of this Ordinance is prescribed to be taken as to the municipal byelaws therein mentioned, and so on until byelaws adopted by the municipal council shall have been approved of by the Governor in manner aforesaid, or when amended by him in such manner shall have been adopted by such council in manner aforesaid.

If byelaws disallowed, council to frame new ones.

38. It shall be lawful for the municipal council from time to time to add to, amend, or repeal the existing byelaws, or any of them, or any part of them, provided that the said additions, amendments, or repealing provisions, as the case may be, shall be in all respects dealt with and decided upon in the same manner as is herein-before directed and provided with respect to the original byelaws in the 36th and 37th sections of this Ordinance.

Mode in which byelaws may be added to, amended, or repealed.

39. The municipal council by the byelaws so to be made may impose such reasonable fines as it thinks fit, not exceeding one pound for each breach of such byelaws, and in case of a continued breach further fines not exceeding one pound for each day such breach is continued after notice to the offender to abstain from such breach: Provided always, that such byelaws be so framed as to allow the bench of magistrates herein constituted, before whom alone any fine imposed thereby can be recovered, to order the whole or part only of such fine to be paid, or to remit the whole fine.

Fines may be imposed for breach of byelaws.

Proviso.

40. Such byelaws when confirmed and published shall be binding upon and be observed by all parties acting under the same, and all courts, judges, and magistrates shall take judicial notice thereof.

Rules to be binding upon all persons, and to be taken judicial notice thereof.

Copies of rules.

41. Copies of the byelaws shall be kept at the office of the councils, and be furnished to every person who applies for the same on payment of twopence for each copy.

VIII.—*Contracts.*

Councils to enter into contracts.

42. It shall be lawful for any municipal council from time to time to enter into any contract with any person for any work to be done and performed, or for any materials to be furnished to and for the said council by virtue of this Ordinance, which contract shall specify the work to be done and the price to be paid for the same, and the time when the contract shall be fulfilled, and the penalty or liquidated damages to be paid in case of non-performance thereof, and shall be signed by the chairman and by two or more of the said councillors, and also by the person contracting, which contract, or a copy thereof, shall be entered in a book to be kept for that purpose; but no contract above the value of fifty pounds shall be entered into unless fourteen days' notice be previously given in one or more of the public newspapers published in the Colony, calling for tenders for the execution of such contract at a certain time and place in such notice to be mentioned: Provided always, that if the said council shall be of opinion that it will not be advantageous to contract with the person offering the lowest price, it shall be lawful for the said council to contract with such other person as they shall think proper, and such person so contracting shall give security for the due performance thereof to the satisfaction of the council.

Proviso.

IX.—*Actions by and against Councils.*

Councillors may sue and be sued.

43. In any suit or action which shall or may be brought for the recovery of any penalty or sum of money due or payable by virtue of this Ordinance, or for or in respect of any other matter or thing relating to this Ordinance, by or against the council, it shall and may be lawful for the said council to sue or be sued by the style or description of the municipal council of the place for which it is constituted, and no action shall abate by reason of the death, resignation, retirement, or removal of any councillor: Provided also, that the said councillors shall always be reimbursed and paid out of the monies to arise by virtue of this Ordinance all such costs, charges, and expenses as they shall be put to, or become chargeable with, by reason of bringing or defending such suit or action, and shall not be personally answerable or liable for the payment of the same, or any part thereof, unless such suit or action shall arise in consequence of their or any of their own wilful and gross neglect or default. The service of all processes in any action against any municipal council shall be made upon the secretary thereof.

Proviso.

Cost to be paid out of the funds of the municipality.

44. All the necessary costs, charges, and expenses attending the carrying into effect the provisions of this Ordinance and of the municipal byelaws into effect shall be paid out of the monies authorized to be received by the council under the provisions of this Ordinance.

X.—*Revised Lists of Householders.*

45. The council for each town for the time being shall, every second year in the month of September, draw out a list of all such persons as it shall find to be eligible and qualified to vote as resident householders under the provisions of this Ordinance, and a list of all such persons as it shall find eligible and qualified to act as councillors, which lists respectively having been signed by it shall on or before the first day of October be delivered to the said Government Agent, who is hereby empowered and required to act therein or in reference thereto as he is required by the 10th, 11th, and 12th sections of this Ordinance, relative to the lists therein provided to be made by the committee therein mentioned; and the notice of twenty-four hours in the said 11th section specified, and therein directed to be given to the committee in the said section mentioned, shall be given to the council for the time being by whom the lists in the present section mentioned shall have been prepared. Council to frame new lists

46. The lists herein-before in the 10th, 11th, and 12th sections of this Ordinance mentioned shall remain with the Government Agent until new lists, as in the preceding section directed, shall have been delivered in by the council, affixed as before mentioned, and if imperfect or inaccurate amended; after which such new lists shall supersede the former lists, and become in turn the sole and conclusive evidence of municipal qualification until other lists shall again be framed, and so on as long as this Ordinance shall remain in force; provided that any time during which any of the amended lists aforesaid, whether those first completed or any other, shall in their finished and amended shape remain in the custody of the said Government Agent, it shall be lawful for any person, whether a person having been before the completion of the same, or a person first becoming after the completion of the same, fit and eligible to be elected a councillor, or qualified as a resident householder, as the case may be, upon giving forty-eight hours' notice of his intention to the council to claim before the said Government Agent that his name be put upon the councillors' list or the householders' list, as the case may be, and to claim, upon the like notice being given to any party whose qualification may be impeached, that the name of such party may be expunged from either of the said lists respectively as having been or become disqualified; and the said Government Agent shall in every such case hear and determine as in the 11th section specified; but no person whose name shall have been put upon either of the said lists, after the same shall have been completed in manner aforesaid, shall be eligible to be elected a commissioner or to vote as a householder, as the case may be, within the space of one month from the period when his name shall, under the circumstances aforesaid, have been placed upon the one or the other of the said lists respectively. Mode in which such new lists may be amended.

XI.—*Books and Accounts.*

47. All acts, orders, and proceedings of the said council at any of its meetings shall be entered in a book to be kept by it for that Books of proceedings of

council to be kept.

purpose, and shall be signed by the chairman or person acting as such and two of the councillors then present, and all such acts, orders, and proceedings shall then be deemed and taken to be original acts, orders, and proceedings, and any copy thereof or extract therefrom shall be admissible in evidence in any court of justice, provided it be proved to be an examined copy or extract, or provided it purports to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted.

Books of accounts to be kept by council which shall be open to inspection.

48. The said council shall from time to time order and direct a book or books to be provided and kept at its office, which shall not, under any pretence whatever, be taken from thence, except by process of a competent court, in which shall be entered true and regular accounts of all sums of money received, paid, and expended for or on account of the purposes of this Ordinance, and of the several articles, matters, and things for which such sums of money shall have been disbursed and paid; and such book or books shall at all reasonable times be open to the inspection of the said council, and of every such resident householder as aforesaid, without fee or reward; and the said council and other persons aforesaid, or any of them, shall or may take copies of or extracts from the said book or books without paying for the same ; and in case any councillor or any municipal officer shall refuse to permit or shall not permit the said persons aforesaid to inspect the same, or take copies or extracts as aforesaid, the councillor or officer shall forfeit and pay any sum of money not exceeding five pounds for each default, to be levied and applied in manner herein-after provided.

Penalty on refusal.

Book for the entry of complaints.

49. The said council shall from time to time order and direct a book to be kept, in which shall be entered all complaints made by any inhabitant of any matter cognizable by the council for that purpose, and any councillor or other person appointed by the council shall forthwith inquire into the truth of such complaints, and report thereon to the council, and such report shall be entered in the said book, and such book shall be open at all reasonable times to any complainant or inhabitant within the limits of the town, who shall be at liberty to take copies of the same on payment of such fees as the council shall direct.

Annual account to be prepared and deposited with council, and an abstract published in the "Government Gazette."

50. In the month of January in every year a true account shall be made in writing of all monies received and paid by virtue of this Ordinance during the preceding year ending on the 31st day of December, and a copy or duplicate of such account, verified on oath before any justice of the peace by the said treasurer, and certified by the chairman and two of the said councillors, shall be deposited with the said council, and shall be open to the inspection of any resident householder, or any party interested; and an abstract thereof shall be published in the "Government Gazette" for general information before the first day of March following.

Annual estimate of revenue and expenditure to be made and deposited with the coun-

51. The said council shall also in the month of January in every year draw out an estimate of the probable revenue and expenditure for the year, showing the several taxes or rates to be levied or assessed during the same, which estimate shall be signed by the treasurer and countersigned by the chairman and two

councillors, and an attested copy thereof deposited in its office, and shall there be open to the inspection of any resident householder, or any party interested; and an abstract thereof shall be published in the "Government Gazette," for general information, before the thirty-first day of the said month of January.

cil, and an abstract published in the "Gazette."

XII.—*Municipal Fund.*

52. All such monies as shall be levied for the purposes of the municipal councils under the authority of this Ordinance, or any Ordinance to be herein-after enacted, or which may be made over at any time from the general revenue to the municipal councils for the purposes of this Ordinance, and all fines levied and penalties recovered under the authority of this Ordinance, or in promotion of the duties cast upon the municipal councils by this Ordinance, shall form a municipal fund, of which the councillors shall be the trustees, and be applied by them to the conservancy and improvement of the town for which the municipal council is constituted, and to the payment of the salaries and wages of the officers and servants employed by the council, and all other expenses incurred in and about the carrying out of the provisions of this Ordinance.

Municipal fund.

XIII.—*Rates and Taxes.*

53. It shall be lawful for any municipal council, and it is hereby authorized and required, subject to the provisions herein-after contained, from time to time and so often as it shall think necessary to make and assess, with the sanction of the Governor and Executive Council, any rate or rates on the annual value of all houses and buildings of every description, and all lands and tenements whatsoever within the municipality, such rate or rates to endure for any period not exceeding twelve months; provided that such rates in the aggregate shall not exceed the sum necessary for the maintenance of the police for the town as herein-after defined, and that no house, building, land, or tenement shall pay less than two shillings a year, which is hereby declared the minimum rate payable on any house, building, land, or tenement: Provided further, that all buildings appropriated to religious worship and buildings in charge of military sentries shall be exempted from the payment of such rate.

Council may assess rates on real property.

Proviso.

54. Whenever any municipal council shall be ready to provide for the lighting of the public streets of the town, or any portion of the town, and to supply water for the cleansing and watering of the streets, sewers, and drains thereof, or for the use of the inhabitants thereof, it shall be lawful for the said council, and it is hereby authorized and empowered, with the sanction of the Governor and the Executive Council, to levy annual lighting and watering rates upon the occupiers of all houses, buildings, and lands in such town or portion of the town, and such rate shall be payable by such instalments and at such times as the council shall direct, and shall be assessed and levied in the manner herein-after mentioned, or as by any byelaw provided.

Light and water rates.

Tax on carriages, &c. not plying for hire.

55. It shall be lawful for any municipal council, and it is hereby authorized and empowered, with the sanction of the Governor and Executive Council, to levy from time to time a tax on all carriages, carts, hackeries, horses, ponies, mules, bullocks, and asses kept or used within the municipality, and which are not (as respects carts, carriages, and coaches,) the carts, carriages, and coaches referred to in the fifty-eighth section of this Ordinance, at the rates not exceeding those specified in Schedule B.; and such tax shall be payable in such proportions and at such times as the council shall direct, and shall be assessed and levied in the manner herein-after mentioned or by any byelaw provided: Provided that such tax shall not apply to or include the vehicles and animals kept or used by the Governor and his personal staff, gun carriages, or ordnance carts or waggons, artillery and cavalry horses, or horses of the mounted orderlies or police, or the respectively authorized number of horses belonging to officers doing staff, regimental, or other duty in the town, or vehicles or horses kept for sale and not used for any other purpose.

Proviso.

Inhabitants of the municipal town are not liable to labour under the Ordinance No. 10 of 1861.

56. From and after the first day of January next after the day on which the Ordinance comes into force in any town, no person residing within the limits of any municipality shall be liable to perform labour upon the roads or other means of communication by land or by water in this Colony, or to pay any sum of money in commutation of such labour under the provisions of the Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony;" but it shall be lawful for any council acting under the authority of this Ordinance to impose and enforce a rate, payable in labour or in money, in commutation of such labour, upon all persons residing within the limits of the municipality who would have been liable to the performance of labour under the Ordinance herein-before mentioned if this Ordinance had not been passed, for the maintenance of the roads or other public means of communication within the municipality, and to make such byelaws relative to the calling out and compelling the performance of such labour, and for the purposes generally connected with the labour and commutation, as to it shall seem fit and necessary: Provided that such rate shall not exceed six days' labour required from any person in one year, or a commutation in lieu of the same not exceeding the rate of five shillings for one year: Provided further, that until such byelaws are made by the municipal council, the provisions of the said Ordinance No. 10 of 1861 shall, so far as the same be applicable, be acted upon and deemed of force as if the same were inserted herein.

Proviso

Further proviso.

Tolls within the municipality.

57. The municipal council of any town shall be entitled, with the sanction of the Governor and Executive Council, to levy tolls and to take and receive all tolls payable within such town: Provided that the municipality of Colombo shall take and receive the tolls payable at the Lock-gate at St. Sebastian, the tolls on the road to Galle now payable at Dehiwella and on the road to Cotta, and the tolls payable at the bridge of boats at Grand-pass, the drawbridge at Ottaseda, and at the bridges at Orugoddewatte, and

the toll at the ferries at Grand-pass and Hendelle; and the municipality of Kandy shall take and receive the tolls at Gonawatte, Halaloya, and Lewelle ferries, and at the bridges at Talataoya, Peradenia, and Katoogastotte. It shall further be lawful for the Governor and Executive Council to apportion to any municipal council such proportion of a toll already established, or to be hereafter established under the authority of the Ordinance No. 22 of 1861, entitled "An Ordinance to consolidate and amend the Law in respect to the Collection of Tolls," or any Ordinance to be hereafter enacted, as they may deem fair for the proper maintenance of the trunk roads within such municipality.

Tax on carriages and boats plying for hire.

58. So much of the stamp duty recovered on carts, coaches, carriages, and boats under the authority of the Ordinances, No. 7 of 1848, No. 1 of 1853, and Nos. 6 and 14 of 1865, or any other Ordinance to be herein-after enacted, for the purposes of the said Ordinances herein cited, as shall be recovered in respect of carts, carriages, and boats kept or used within the municipality, shall be payable to the municipal fund, and form a part thereof.

Certain fees and stamp duties for licenses, under Arrack, Firearms, Butchers' and Nuisance Ordinances, vested in municipal council.

59. The municipal council of any town shall be entitled to take and receive all the sums paid for fees and stamp duties for licenses by the inhabitants residing within such town, under section 30 of the Ordinance No. 10 of 1844, entitled "An Ordinance "to amend the Law relative to the distillation and sale of Arrack, "Rum, and Toddy within these Settlements;" under the Ordinance No. 22 of 1848, entitled "An Ordinance to amend in certain "respects the Ordinance No. 13 of 1847," entitled "To regulate "the possession of Firearms;" under section 8 of the Ordinance No. 14 of 1859, entitled "An Ordinance to amend the Law re-"lating to Butchers, and the private killing of Cattle, and to pro-"vide for the establishment of Public Slaughter-houses;" and under section 4 of the Ordinance No. 15 of 1862, entitled "An "Ordinance for the better preservation of Public Health and the "suppression of Nuisances," or any Ordinance to be herein-after enacted for the purposes of the Ordinances or sections of Ordinances herein cited or instead thereof.

Stamp for certificate, &c. of proctors, advocates, and notaries, vested in municipal council.

60. The municipal council of any town shall be entitled to take and receive all sums paid by the inhabitants of such town as stamp duties for the certificate of proctors and advocates under the Ordinance No. 12 of 1848, entitled "An Ordinance for "making provision in certain respects touching the admission of "Advocates and Proctors, and for the annual registration of "practising Proctors," for certificates to notaries under section 17 of the Ordinance No. 16 of 1852, entitled "An Ordinance to "amend the Law relating to Notaries," and for articles of clerkship or contract to serve as clerk in order to the admission of any person as an advocate, proctor, notary, or apothecary, and for warrants to act as notary public under the Ordinance No. 11 of 1861, entitled "An Ordinance to consolidate and amend the Law "relating to Stamp Duties," or any Ordinances to be herein-after enacted for the purposes of the said Ordinances or sections of Ordinances herein cited or instead thereof.

XIV.—*Property vested in Councils.*

Certain lands to be vested in the council.

61. All waste ground or land situate within the municipal town, and all stone, cabook, or gravel quarries therein situate, which may be handed over to the municipality with the sanction of the Governor, (and of which handing over a record in writing shall be made, signed by the persons authorized to hand the same over and the officer of the municipal council authorized to receive the same,) and all right, title, and interest in such ground, land, and quarries shall be and the same are hereby vested in the said council, to be administered, and the revenue thereof employed and made use of for the benefit of the municipality, and for the purposes of this Ordinance: Provided that the said council shall not be authorized or permitted to sell or otherwise alienate the said lands, without having first obtained the consent in writing of the Governor to such sale or alienation, and without having, after obtaining such consent, published such resolution to sell, during three successive weeks, in the "Government Gazette;" and provided that nothing in this section contained shall be deemed to affect or prejudice any right or title of the Crown to any such land or quarries which Her Majesty may at any time resume or dispose of for public purposes: Provided also, that nothing herein contained shall affect or be construed to affect any right or title which Her Majesty's Board of Ordnance has or may have in the property herein-before mentioned, or in any part thereof.

Proviso.

Further proviso.

Other property vested in municipal council.

62. The property of and in all the lamps, lamp-irons, lamp-posts, bridges, sluices, dam-pipes, posts, chains, pales, and rails in, about, or belonging to the said streets and places within the limits of the said municipality, and of and in all iron, timber, stone, bricks, and other materials, and furniture and things belonging thereto, (except when the same shall be otherwise regulated by the contract with the said council), shall be and the same is hereby vested in the said council, and may be used, sold, and disposed of by it from time to time as it shall deem necessary; and the money arising from such sale shall be applied towards the purposes of this Ordinance.

XV.—*Recovery of Rates and Taxes.*

Property to be valued.

63. It shall be lawful for any council from time to time to order and direct such valuer or valuers as it shall appoint for the purpose of the valuation of property within the municipality, to make and enter in books provided for that purpose an assessment of the annual value of every house, building, land, or tenement whatever, liable to be so assessed within the municipality, according to its full and fair value, and such assessment books, when completed by such valuers respectively, shall be by them delivered to the council, who shall as soon as may be conveniently done thereafter cause a notice of assessment to be served on or left at the premises of every occupier, whether he be proprietor, joint proprietor, or tenant of the house, building, land, or tenement assessed; and the said notice shall be in the form marked C. in the schedule hereunto annexed; and there shall be appended

thereto a demand of payment of the amount leviable within such time and in such proportions as the council shall deem reasonable.

64. It shall not be lawful for the municipal council to seize any moveable property which may be found in or upon any house, building, land, or tenement in respect of which such tax shall be due for any arrears of tax beyond two quarters next preceding such seizure, unless such moveable property shall belong to any person who was the owner or joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due, or unless such moveable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

Property may not be seized for more than two quarters' arrears.

Exceptions.

65. It shall be lawful for the occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property shall have been seized as aforesaid, or who to avoid such seizure, or after seizure to avoid a sale of such property, shall have paid the amount of tax or rate due in respect of such house, building, land, or tenement, and costs, to deduct the amount paid by him from the first payment of rent due by him on account of the said house, building, land, or tenement, to the owner or owners thereof; and the receipt of the Government Agent or Assistant Government Agent for the amount so paid shall be deemed an acquittance in full for the like amount of rent: Provided always, that nothing herein contained shall authorize any such deduction from his rent by any occupant who by the terms of his lease or other agreement was himself bound and liable to pay such tax or rate.

Tenant paying tax to avoid seizure of his property may deduct it from his rent.

66. The last valuation which at the date of this Ordinance coming into operation shall have been made under the Ordinances No. 17 of 1844, No. 4 of 1852, and No. 4 of 1853, for the purposes of the assessment tax, may be taken to be the first valuation under this Ordinance, until the council shall have caused a new valuation to be made.

Assessment under Ordinances 17 of 1844, 4 of 1852, and No. 4 of 1853 to be enforced for first year.

67. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the assessment book, and also in any notice or other proceeding under this Act, as the "owner" or "occupier" of the property on which the rate is assessed, without further description.

Owner or occupier how to be designated if his name be unknown.

68. In order to enable the council to arrive at a fair valuation of any houses, buildings, or lands liable to the rate, it shall be lawful for the council to require the owner or occupier of such houses, buildings, or lands to furnish the council with returns of the rent or annual value thereof, and for the like purpose it shall be lawful for the council, or any person appointed by them for that purpose, at any time between sunrise and sunset, to enter and inspect such houses, buildings, or lands. Whoever refuses or fails to furnish the return herein specified for the space of one week from the day on which he shall have been required so to do, and whoever knowingly makes a false or incorrect return, and whoever hinders, obstructs, or prevents the council, or any person appointed by it as aforesaid, from entering or inspecting, or if

Returns may be required for purpose of valuation.

Power to enter houses, &c.

Penalties for not furnishing returns, &c.

need be measuring any such houses, buildings, or lands, shall be liable to a fine not exceeding five pounds.

New assessment or valuation book need not be prepared yearly. Proviso.

69. It shall not be necessary to prepare a new assessment every year, but the council may adopt the valuation or assessment contained in the book for the preceding year, with such alterations as may, in particular cases, be deemed necessary, as the valuation or assessment for the year following: Provided always, that notice of such valuation and assessment shall be given in the manner prescribed herein, or by any byerule prescribed.

Power of council to revise assessment.

70. The municipal councils shall have power and authority to revise the assessment made by the valuers, increasing or decreasing the same as they shall see fit.

Occupier liable to the rate for time of occupation.

71. Every occupier shall be liable to the lighting rate and watering rate for the time of his occupation; and when any person shall have been an occupier for a part only of any quarter, the council shall charge him with only so much of the rate for that quarter as may be proportionate to the number of days during which he shall have continued to be an occupier.

Owner when liable.

72. When any house or building or any land is unoccupied, or is let by the owner in apartments, flats, or portions, the owner shall be liable to pay the lighting rate and watering rate instead of the occupiers.

Occupiers sub-letting to be liable.

73. When any person rents any house or building or any land from the owner thereof, and sub-lets the same in apartments, flats, or portions, such person for the purpose of the lighting rate and watering rate shall be held to be the occupier.

Any person liable to any rate leaving the municipality during a quarter, may be made at once to pay such rate up to date.

74. If during the course of any quarter the council shall have reason to believe that any person who, if the current quarter had come to an end, would be liable to pay the house rate; or the lighting rate, or the watering rate, for that quarter is about to remove from the town forthwith, it shall be lawful for the council to declare such person liable to immediate payment of the said rates, or any of them, from the commencement of that quarter up to the date of such declaration, and the amount of such rate from such time due from such person shall be leviable forthwith in like manner and in all respects as the said rates are in ordinary cases leviable.

Possession for a part of a quarter involves liability for the whole quarter. Proviso.

75. Every person who may have owned or had charge of any vehicle or animal kept within the said municipality for any portion of a quarter shall be liable for the whole tax imposed under the 55th section of this Ordinance for that quarter: Provided that in case any such person has kept or had charge of any vehicle or animal for a period less than thirty days, the council shall remit two-thirds of the tax for the quarter.

Carriages under repair.

76. If a carriage shall have been under repair at a carriage maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage for that quarter.

Council may compound with livery stable-keepers and others.

77. The council may compound, for any period not exceeding one year, with livery stable keepers and other persons keeping or using carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the taxes specified in Schedule B.

78. The council shall from time to time cause to be prepared and entered in distinct columns in a book to be kept at the office of the council, and to be open to the inspection of any persons interested therein, a list of the persons liable to the payment of such taxes, a description of the vehicles and animals in respect of which they are liable, and the amount of the taxes assessed thereon.

List of persons liable to the tax to be entered in a book.

79. In order to enable the council to make such list, the council, or any officer authorized by it, shall send to all persons supposed to be liable to the payment of such taxes a schedule, to be filled up with such information respecting the vehicles and animals kept by them as the council may judge necessary for the assessment of the taxes. The schedule shall be filled up in writing, and signed and dated, and returned to the office of the council by every person to whom it has been sent, whether or not liable to the payment of such taxes; and whoever refuses, neglects, or omits duly to fill up and return such schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable to a fine not exceeding five pounds.

Returns may be required for the purpose of making a list.

80. It shall be lawful for the council, or any person appointed by it for that purpose, at any time between sunrise and sunset to enter and inspect any stable or coach-house, or any place wherein it may have reason to believe that there is any vehicle or animal liable to taxation under section 55 of this Ordinance; and the council may summon any person whom it has reason to believe to be liable to the payment of any tax under the last-mentioned section, or any other person, and may examine any such person as to the number and description of the horses and carriages in respect of which such person is liable to be taxed.

Power to inspect stable, &c. and to summon persons liable to the payment of the tax.

81. Whoever on being summoned under the preceding section fails, without lawful excuse, to appear in pursuance of the summons, and whoever hinders or obstructs the council, or any person appointed by it as aforesaid, from entering or inspecting or leaving any such stable, coach-house, or place, shall be liable to a fine not exceeding five pounds.

Penalty for disobeying summons, or hindering the council.

82. If the amount of any rate assessed or tax imposed under this Ordinance shall not be paid into the office of the treasurer of the municipality within such time as the council shall direct, a warrant signed by the chairman shall be issued to some collector or other officer of the municipality named therein, directing him to levy the same, and the costs of recovery, by seizure and sale of all and singular the property of the proprietor, or of any joint proprietor, of the premises on account of which such rate or tax is due, and of all moveable property, to whomsoever the same may belong, which may be found in or upon any such premises; and the said warrant shall be in the form marked D. in the schedule hereunto annexed.

If rate or tax not duly paid, warrant for recovery thereof to issue.

83. The property seized in virtue of any such warrant shall be sold by public auction by the officer to whom such warrant is addressed, or some other officer of the municipality appointed for that purpose, for payment of the said rate or tax and costs, at any

Property seized to be sold by auction after ten days.

time after the expiration of ten days from the day of such seizure, unless in the meantime the amount of the rate and of the costs in the said warrant mentioned be duly paid; and the overplus accruing by such sale (if there be any), after deducting the amount of such rate and the costs (which costs the said officer is hereby authorized to retain), shall be restored to the owner or joint owner of the property so sold.

Houses may be broken open in the daytime for purposes of seizure.

84. It shall be lawful for the person to whom any such warrant is addressed to break open in the daytime any house or building for the purpose of seizing property in pursuance of such warrant.

Certificate of sale.

85. If land or other immoveable property be sold under the warrant, a certificate in substantially the form marked E. in the schedule hereunto annexed, signed by the chairman, shall be sufficient to vest the property in the purchaser, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immoveable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

Assessment, &c. not to be impeached for want of form.

86. No assessment or valuation, and no charge or demand of rate or tax under the authority of this Ordinance, and no seizure and sale, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment or the mode of seizure and sale: Provided that the directions of this Ordinance or of any byelaw made thereunder be in substance and effect complied with, and no proceedings under this Ordinance or byelaw shall be quashed or set aside for want of form in any court of justice.

Proviso.

XVI.—*General Conservancy of the Town.*

Streets, &c. vested in municipal councils.

87. All public streets and bridges within each municipality (excepting such as shall be specially exempted by the Governor, with the advice and consent of the Executive Council, by proclamation to be for that purpose from time to time issued), and the pavements, stones, and other materials thereof, and also all erections, materials, implements, and other things provided for such streets, shall be vested in the municipal council of that town for the purposes of this Ordinance.

Power to make and improve streets.

88. The council, with the sanction of the Governor and Executive Council, may lay out and make new streets, and may build and construct bridges and tunnels, and may turn, divert, discontinue, or stop up any street, and may widen, open, enlarge, or otherwise improve any such street, making due compensation from the municipal fund to the owners and occupiers of any land, houses, or buildings which may be required for any such purposes.

Power to take land adjoining new streets for building purposes.

89. In laying out or making any new streets, or in turning, diverting, widening, opening, enlarging, or otherwise improving any street, in addition to the land required for the carriageways and footways thereof, the council may, with the sanction of the

Governor and Executive Council, also purchase on its behalf the land necessary for the houses and buildings to form the said street, and may with the like sanction sell and dispose of the same, with such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as it shall think fit: Provided that if any land be taken under the provisions of this Ordinance compensation shall be made to the owners for any damage which may be done thereby to any adjoining land or buildings of such owner, and such compensation shall, in case of dispute, be ascertained and determined as herein-after provided.

Proviso.

Compensation for damages to adjoining land.

90. The council may, with the sanction of the Governor and Executive Council, agree with the owners of any land for the absolute purchase thereof for the purpose of laying out and making new streets, or of widening, enlarging, or otherwise improving any of the streets, for any purpose whatever connected with the conservancy or general improvement of the town.

Power to agree for purchase of land for improving streets.

91. When there is any hindrance to the acquisition by purchase of any land or building required for the purpose of this Ordinance, the Governor, upon the application of the council and after such inquiry as may be thought proper, may declare that the land or building is needed for a public purpose, and may order proceedings for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any laws now or hereafter to be in force for the acquisition of land for public purposes; and the Governor may vest such land or building in the council on its paying the compensation awarded.

If necessary, land may be acquired under the law for the acquisition of land for public purposes.

92. The council, with the sanction of the Governor and Executive Council, may on its behalf sell any lands or buildings vested in it by virtue of this Ordinance, or acquired by it for the purposes thereof, either in block or in parcels as it may find most convenient and advantageous, and the proceeds of such sale shall be paid to the credit of the municipal fund.

Power to sell lands or buildings.

93. Whenever any street vested in the council shall be discontinued and stopped up under the provisions of this Ordinance, the council, with the sanction of the Governor and Executive Council, may on its behalf sell the land, or such part thereof as shall not be required for the purposes of this Ordinance, and the proceeds of such sale shall be paid to the credit of the municipal fund.

Power to sell streets.

94. The council may cause such lamp irons or lamp posts or other posts to be put or fixed upon or against the walls or palisadoes of any houses, tenements, buildings, or enclosures (doing as little damage as may be practicable thereto), or to be put up or erected in such other manner within all or any of the said roads, streets, and places within the limits of the municipality as shall be deemed proper, and may also cause such number of lamps of such sizes and sorts to be provided and affixed and put upon such lamp irons and lamp posts as shall be necessary for lighting all or any of such roads, streets, and places, and cause the same to be lighted during such hours as shall be necessary, and also from time to time to make such byelaws thereon as it shall find necessary.

Council to put up lamp posts and lamps.

Council to keep up fire engines.

95. The council may keep up fire engines with pipes and other utensils proper to the same for the use of the municipality, and provide a proper place or places for the keeping of the said fire engines, and make such further byelaws thereon as it shall think necessary.

Persons injuring lamps, lamp irons, &c. to be punished.

96. If any person shall wilfully break, throw down, spoil, or damage any lamp, lamp iron, lamp post, pole, rail, chain, or other furniture thereof, or wilfully extinguish the light of any lamp, or shall break, spoil, or damage any building, or shall wilfully break or damage any public watercourse, drain, or ditch within the limits of the said municipality, or any property belonging to the municipality, it shall be lawful for any person who shall see the offence committed to apprehend, and also for any other person to assist in apprehending, the offender, and by the authority of this Ordinance, and without any warrant to deliver him to any constable, who is to keep him in safe custody, and with all reasonable despatch to convey him before the bench of magistrates hereby constituted, and if the party accused shall be convicted of any such offence he shall in addition to being liable to any fine to which he may be liable under this Ordinance, be adjudged by the said bench to make full satisfaction for the damage which shall have been done thereby, and one moiety of such fine shall be paid to the person apprehending such offender, and the other moiety shall be applied for the purposes of this Ordinance; and in case any such offender shall not on conviction pay the said fine and satisfaction, such proceedings shall be taken as may lawfully be taken in the case of any other fine or penalty imposed by a police court.

Cleansing streets.

97. The council shall cause the streets, including the footways thereof, from time to time to be properly swept and cleansed, and the dust, dirt, ashes, rubbish, and filth of every sort found thereon to be collected and at once removed.

Dust boxes in streets.

98. The council may cause any number of moveable or fixed dust boxes or other convenient receptacles, wherein dust, dirt, ashes, and rubbish shall be temporarily deposited, to be provided and placed in proper and convenient situations, or carts to go round at stated hours to receive the same, and may require the occupiers of houses in streets to cause all such matters as aforesaid to be deposited daily, or otherwise periodically, in the said receptacles or carts. Every person who after such receptacles have been provided, and after such requisition as above mentioned has been made, shall deposit or cause or permit to be deposited any such matter in any street except in such receptacles or carts, shall be punished with fine which may extend to one pound.

Place of deposit for filth.

99. The council from time to time shall provide places convenient for the deposit of the nightsoil, dung, and other filth, and the dust, dirt, ashes, and rubbish collected and removed under the authority of this Ordinance, and for keeping all cattle, carts, implements, and other things required for the above or any of the purposes of this Ordinance; and for any of such purposes the council may, with the sanction of the Governor and Executive Council, purchase or take on lease any land or buildings by it considered necessary, or may cause any new building to be made

upon any land to be purchased or hired by it: Provided that no such dust, dirt, ashes, rubbish, nightsoil, dung, and other filth collected and removed under the authority of this Ordinance shall be deposited in the neighbourhood of populous localities, nor within the limits of the town.

Proviso.

100. All dirt, dust, ashes, rubbish, sewage, soil, dung, and filth collected from streets, houses, privies, sewers, and cesspools shall be the property of the council, and the council shall have power to sell or dispose of the same as it may think proper, and the money arising from the sale thereof shall be paid to the credit of the municipal fund.

All rubbish, &c. collected to be the property of council.

101. The council, so far as it may deem requisite for the public convenience, shall cause the streets to be watered, and for that purpose may provide such works, engines, and establishments as it may think necessary.

Watering streets.

102. Whoever, after this Ordinance comes into operation, builds any wall, or erects or sets up any fence, rail, post, or other obstruction or encroachment in any street, or deposits or causes to be placed or deposited any box, bale, or package of merchandize, or any other thing in or over any open drain, sewer, or aqueduct along the side of any such street, or on any portion of such street, shall be liable to a fine not exceeding ten pounds; and the council shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person erecting or depositing the same, and shall be recoverable as herein-after provided. Nothing herein contained shall prevent the council from allowing any temporary erections in any public street on occasions of festivals and ceremonies.

Future obstructions in streets or roads.

Power to remove obstruction.

Temporary obstructions on occasion of festivals, &c.

103. It shall not be lawful for any person to erect any range or block of huts, or sheds, or buildings, whether to be used as dwellings or stables, or for any other purposes, on any plot or parcel of ground not previously built upon, or on which no buildings are standing, or to add any hut, shed, or building to any range or block of huts, sheds, or buildings already existing when this Ordinance comes into operation, without previous notice to the council; and the council shall require such huts, sheds, or buildings to be built so that they may stand in regular lines with a free passage or way in front of each line, of such width as the council may think proper for salutary ventilation and for facilitating scavengering, and at such a level as will admit of sufficient drainage, and shall require such huts, sheds, or buildings to be provided with a necessary or necessaries, which must be maintained in proper order; and if any such huts, sheds, or buildings be built without giving such notice to the council, or otherwise than as required by the council, the council shall give notice to the builder or builders thereof to take down and remove the same within one month, and if such huts or buildings be not taken down or removed according to such notice the council shall cause the same to be taken down and removed, and the expenses incurred in doing so shall be paid by the said builder or builders, and shall be recoverable as herein-after provided.

Erection of new huts to be under the control of the council.

Power of the council as to existing huts.

104. Whenever the council is satisfied that any huts, sheds, or buildings, whether used as dwellings or stables, or for any other purposes, and whether existing at the time when this Ordinance comes into operation or subsequently erected, are by reason of the manner in which the huts, sheds, or buildings are crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants or the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of such huts, sheds, or buildings, requiring the owners or occupiers thereof, or at its option the owner of the land on which such huts, sheds, or buildings are constructed, within such reasonable time as may be fixed by the council for that purpose, to execute such operations as the council may deem necessary for the avoidance of such risk; and in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the officer appointed by the council may cause the said huts, sheds, or buildings to be taken down, or such operations to be performed in respect of such huts, sheds, or buildings as the council may deem necessary to prevent such risk. If such huts, sheds, or buildings be pulled down, the said officer shall cause the materials of each hut, shed, or building to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut, shed, or building, or if the owner be unknown, or the title disputed, shall be held in deposit by the Treasurer until the person interested therein shall obtain the order of a competent court for the payment of the same: Provided always, that in case any huts, sheds, or buildings existing at the time when this Ordinance comes into operation should be pulled down under this section by order of the council, or in pursuance of its notice, compensation shall further be made to the owner thereof, and the amount thereof in case of dispute shall be ascertained and determined as herein-after provided.

Proviso.

Houses may be set forward.

105. The council may, upon such terms as it thinks fit, allow any house or building to be set forward for improving the line of any street in which such house or building to be set forward is situated.

Projecting houses when taken down to be set back.

106. When any house or building any part of which projects beyond the regular line of a street, or beyond the front of the house or building on either side thereof, has either entirely or in greater part been taken down, burned down, or has fallen down, the council may require the same, when being rebuilt, to be set back to or towards the line of the street or the line of the adjoining houses or buildings, and the portion of land added to the street by so setting back the house or building shall thenceforth be deemed part of the street and be vested in the council: Provided always, that the council shall make full compensation to the owner of any such house or building for any damage he may thereby sustain; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner herein-after provided.

Proviso.

Names of streets.

107. The council shall from time to time cause to be put up or painted on a conspicuous part of each house, building, wall, or place

at or near each end, corner, or entrance of every street, the name by which such street is to be known, and whoever destroys, pulls down, or defaces any such name, or puts up or paints any name different from that put up or printed by order of the council, shall be liable to a penalty not exceeding one pound for each offence.

Numbers on houses.

108. The council may from time to time fix a number in a conspicuous place on the outer side of any house or building, or at the entrance of the enclosure thereof fronting the street, and whoever destroys, pulls down, or defaces any such number shall be liable to a penalty not exceeding one pound for each offence.

Troughs and pipes to be fixed to houses.

109. The owner of every house or building in any street shall within one month after notice from the council to that effect put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner as the council may direct, so that it shall not fall upon the persons passing along the street; and in default of compliance with such notice within the period aforesaid such owner shall be liable to a fine not exceeding one pound for every day that he shall so make default.

Projections from houses not to be allowed.

110. The council may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction which after this Ordinance comes into operation shall be erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects into or encroaches upon or is an obstruction to the safe and convenient passage along any public street, or obstructs or projects or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the council; and in default thereof shall be liable to a fine not exceeding twenty pounds, and the council in such case may remove such projection, encroachment, or obstruction, and the expenses of such removal shall be recoverable as herein-after provided: Provided that when the expenses shall have been paid by the occupier, except in the case in which such projections, encroachments, or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house or building.

Proviso.

Removal of existing projections.

111. The council may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction which, although erected before this Ordinance comes into operation, shall have been erected or placed against or in front of such house or building, if the same overhangs or juts into or in any way projects into or encroaches upon any street so as to be an obstruction to the safe and convenient passage along such street, or if the same projects or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street so as to obstruct or interfere with such aqueduct, drain, or

sewer, or the proper working thereof; and such owner or occupier shall within thirty days after the service of such notice remove such projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the council, and in default thereof the council may remove such projection, encroachment, or obstruction; and if such projection, encroachment, or obstruction shall have been lawfully made, the council shall make reasonable compensation to every person who suffers damage by such removal or alteration, and if any dispute shall arise touching the amount of such compensation the same shall be ascertained and determined in the manner herein-after provided.

Projecting verandahs, &c. may be made in streets not less than 36 feet wide.

112. The council may give permission in writing to the owners or occupiers of houses or buildings in streets the width of which is not less than thirty-six feet to put up open verandahs, balconies, sunshades, weather frames, and the like, to project over the street to an extent not exceeding four feet beyond the line of the plinth or basement wall.

Houses in a ruinous and dangerous state.

113. If in any street any house, building, or wall, or anything affixed thereon, be deemed by the council to be in a ruinous state, or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, it shall immediately, if it appears to be necessary, cause a proper board or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the council shall cause all or so much of such house, building, wall, or thing, as it shall think necessary to be taken down, repaired, or otherwise secured; and all the expenses incurred by the council shall be paid by the owner or occupier of the premises, and shall be recoverable as herein-after provided.

Sale of materials of ruinous houses.

114. If any such house, building, or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Council may sell the materials thereof, or so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, restore any overplus arising from such sale to the owner of such house, building, or wall: Provided always, that in case no demand for such overplus as aforesaid shall within twelve months be made by any person entitled to call for the same, the council shall be at liberty to pay the amount of such overplus to the credit of the municipal fund, and shall be freed from any liability to pay or answer for or in respect of such unclaimed overplus. The council, although it sells such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as by this Ordinance are given to it for compelling the payment of the whole of the said expenses.

Proviso.

115. If any building or land, by reason of abandonment or disputed ownership or other cause, shall remain untenanted and thereby be a resort of idle and disorderly persons, or be complained of by any two or more of the neighbours as a nuisance, the council, after due inquiry, may cause notice in writing to be given to the owner, or the person claiming to be the owner, if he be known and resident within the limits of its jurisdiction, and shall also cause such notice to be put on the door of the building or some conspicuous part of the premises, requiring the persons concerned therein, whoever they may be, to secure or enclose the same, or to abate the nuisance; and if such notice shall not be complied with within eight days the council shall cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the premises, and shall be recoverable as herein-after provided.

Power to shut up and secure deserted houses.

116. It shall be lawful for the council any time between sunrise and sunset, by any of its officers, on giving such notice as herein-after provided, to enter into and inspect all houses and buildings, and by an order in writing to direct all or any part to be forthwith internally and externally limewashed or otherwise cleansed for sanitary reasons, and if the owner or occupier of such house or building neglect to do so within three days from the time when such order shall have been served upon him, the council may cause the same to be done, and the expenses incurred shall be paid by the owner or occupier, and shall be recoverable as herein-after provided.

Power to enter and cleanse houses and buildings.

117. Whenever it shall appear to the council that any house is so overcrowded as to be dangerous or prejudicial to the health of the inhabitants thereof, or of the neighbourhood, and the inhabitants shall consist of more than one family, the council shall cause proceedings to be taken before the bench of magistrates to abate such overcrowding, and the said bench shall thereupon make such order as it may think fit, and the person permitting such overcrowding shall be liable to a penalty not exceeding two pounds for each day after the date of such order during which such overcrowding shall continue.

Overcrowding of houses.

118. The Government or the council may from time to time cause to be made such main and other sewers, drains, and water-courses as may be judged necessary for the effectual draining of the town and if needful the Government or council may carry them through, across, or under any street, or any place laid out as or intended for a street, or any cellar or vault which may be under any of the streets, and (after reasonable notice in writing in that behalf) into, through, or under any inclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done; and if any dispute shall arise touching the amount or apportionment of compensation, the same shall be settled in the manner herein-after provided for the settlement of disputes respecting damages and expenses.

Government or council to make public sewers.

119. The council shall maintain and from time to time repair, and as it sees fit enlarge, alter, arch over, or otherwise improve all or any of the sewers and drains, culverts, gutters, and water-courses made by and vested in it, and may discontinue, close up, or

Council to repair and alter and discontinue sewers.

destroy such of them as it may deem useless or unnecessary: Provided always, that the discontinuance, closing up, or destruction of any of them shall be so done as not to create a nuisance; and if by reason thereof or of any such alteration as herein-before mentioned any person is deprived of the lawful use of any sewer, drain, culvert, gutter, or watercourse, the council shall with due diligence provide some other as effectual as the one of which he is so deprived.

Proviso.

Cleansing and emptying sewers.

120. The council shall cause the sewers, drains, culverts, gutters, and watercourses made by and vested in it to be so constructed, maintained, and kept as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied, and for the purpose of flushing, cleansing, and emptying the same it may construct and place, either above or under ground, such reservoirs, sluices, engines, and other works as may be necessary; and it may also with the sanction of the Governor cause all or any of such sewers, drains, culverts, gutters, and watercourses to communicate with and be emptied into the sea or other fit place; or it may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell the said refuse for any agricultural or other purposes, as may be deemed most expedient, but so that it shall not become a nuisance.

Penalty for making unauthorized drains into public sewers.

121. Whoever, without the written consent of the council first obtained, makes or causes to be made any drain into any of the public sewers or drains, shall be liable to a penalty not exceeding five pounds, and the council may cause such drain to be demolished, altered, re-made, or otherwise dealt with as it may think fit; and all the expense incurred thereby shall be paid by the person making such drain, and shall be recoverable as herein-after provided.

Buildings over sewers, &c. not to be erected without consent of council.

122. No building shall be newly erected over any public sewer, drain, culvert, gutter, or watercourse, without the written consent of the council; and if any building be so erected the council may cause the same to be pulled down or otherwise dealt with as it may think fit, and the expenses thereby incurred shall be paid by the person offending, and be recoverable as herein-after provided.

Council may make drains from houses which are not properly drained.

123. If any house or building in or near any street be at any time not drained to the satisfaction of the council by a sufficient drain or pipe communicating with some sewer or drain, or with the sea or some other place at which the council is empowered to empty the sewers, and if there be such means of drainage within one hundred feet of any part of such house or building, the council may, after giving such notice as is herein-after provided, construct or lay from such house or building a covered drain or pipe of such materials, of such size, at such level, and with such fall, as it thinks necessary for the draining of such house or building; and the expenses incurred by the council in respect thereof, if not forthwith paid by the owner, shall be recoverable as herein-after directed.

124. If any house or building newly or in greater part erected or rebuilt in or near any street after this Ordinance comes into operation have such means of drainage as in the last-preceding section mentioned existing within one hundred feet thereof, the owner shall make a drain leading thereunto from the site of such house or building, of such materials, of such size, at such level, and with such fall as the council may direct; and if he neglect to do so within a reasonable time, the council may cause the same to be done, and the expenses thereby incurred shall be paid by the owner, and shall be recoverable as herein-after provided.

Houses hereafter built in or near streets to have drains constructed under the orders of the council.

125. No house or building shall be hereafter built in or near any street upon a lower level than will allow of the drainage of such house or building being led into some public sewer or drain, either then existing or to be hereafter made, or into the sea or other place into which the council is empowered to empty the sewers.

Level of houses hereafter built in or near street.

126. Before beginning in or near any street to construct any house or building, the person intending to construct such house or building shall give to the council notice thereof in writing, and shall accompany such notice with a plan showing the levels at which the foundation and lowest floor of such house and building are proposed to be laid by reference to some level ascertained under the direction of the council, and the intended situation and construction of the privies to be used in connexion with such house or building.

Notice of new buildings in or near streets to be given to council.

127. Within fourteen days after receiving such notice the council may signify its disapproval of the proposed levels or privies, and fix other levels and privies in lieu thereof, and it may require the said house to be set back or forward for the improvement of the street as it may think fit.

Council may signify disapproval within 14 days.

128. If such building be begun or made without sending such notice and plan, or at any levels different from those fixed by the council within the said fourteen days, or in any other respect contrary to the provisions of this Ordinance, the council may, if necessary, cause such building to be altered or demolished as the case may require, and the expense thereby incurred shall be paid by the person failing to comply with the provisions aforesaid, and shall be recoverable as herein-after provided.

Houses built without notice or contrary to this Ordinance may be altered by council.

129. If the council fail to signify in writing its approval or disapproval of the levels and particulars shown on such plans as aforesaid, and to fix other levels and give other directions within fourteen days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding anything herein-before contained, proceed to build the house therein referred to according to the levels and particulars shown on such plan, provided that such building be otherwise in accordance with the provisions of this Ordinance.

If council fail to give instructions within 14 days, parties may proceed without its approval.

130. All sewers and drains, whether public or private, shall be provided by the council, or by other persons to whom they severally belong, with proper traps or other coverings or means of ventilation so as to prevent stench. If the owner of any

Sewers in streets to be covered with traps, &c.

private sewer or drain, whether under his house or without the house, shall, for ten days after notice given to him by the council, neglect or delay to provide and apply proper traps or covering, the council shall provide and apply the same, and the expense incurred thereby shall be paid by the owner of such sewer or drain, and shall be recoverable as herein-after provided.

Power of council to erect or affix to buildings pipes for ventilation of sewers.

131. The council may erect or fix to the outside of any house or building such pipes as it may deem necessary for the proper ventilation of the public sewers, and such pipes shall be carried to a height of not less than six feet above the highest part of the house or building, and shall be erected so as not to occasion any nuisance or inconvenience to the house itself or to any house or building in the neighbourhood.

Common necessaries.

132. The council shall provide and maintain in proper and convenient situations, so as not to create a nuisance, common necessaries and urinals, and shall cause the same to be kept in proper order and to be daily cleansed.

Council may order or cause additional privies to be constructed.

133. In case the council shall be of opinion that any privy or privies or additional privy or privies shall be necessary to be attached to or provided for any house or building or land, the owner of such house or building or land shall within fourteen days after notice in this behalf by the council cause such privy or privies to be constructed in accordance with the requisition of such notice, and in case the requisitions of such notice shall not have been complied with to the satisfaction of the council by such owner within the period aforesaid, the council shall be at liberty to cause such privy or privies to be constructed, and the expense incurred in such construction shall be payable by such owner, and shall be recoverable as herein-after provided.

Council may cause persons employing large numbers of men to provide and maintain necessaries and urinals, &c.

134. It shall be lawful for the council to compel all persons employing large bodies of workmen or labourers to provide and maintain such necessaries and urinals as may to it seem fit, and to cause the same to be kept in proper order and to be daily cleaned; and should such person neglect to provide and maintain such necessaries and urinals, or to keep the same clean and in proper order, the council may construct and cause such necessaries and urinals to be kept in good order and cleaned, and the expense incurred by the council in respect thereof shall be paid by the person aforesaid, and shall be recoverable as herein-after provided.

Neglecting to enclose private privy.

135. The owner or occupier of any house or building or land having a privy on his premises shall have such privy shut out by a sufficient roof, and wall or fence, from the view of persons passing by or residing in the neighbourhood, and it shall not be lawful for any owner or occupier to keep any privy open or with a door or trap door opening on to any street. Every owner or occupier who shall omit to comply with or shall commit any breach of any of the provisions of this section shall be liable to a fine of ten shillings a day for each day of default or breach:

Proviso.

Provided that the council may, in its discretion, permit the continuance for such time as it may think fit of any such privy open or with a door or trap door opening on to any street where such privy already exists and does not create a nuisance.

136. All drains, privies, and cesspools within the town shall be under the survey and the control of the council, and shall be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued; and if the owner of any land or buildings to which any such drain, privy, or cesspool belongs neglect during eight days after notice in writing for that purpose to alter, repair, and put the same in good order in the manner required by the council, the council may cause such drain or privy or cesspool to be altered, repaired, and put in good order in the manner required, and the expense incurred by the council in respect thereof shall be paid by the owner, and shall be recoverable as herein-after provided.

If owners neglect to keep drains, &c. in good order council may cause the same to be done, and charge the owners with the expense.

137. If any such drain or privy or cesspool be constructed after this Ordinance comes into operation contrary to the directions and regulations of the council, or contrary to the provisions of this Ordinance, or if any person without the consent of the council construct any new drain or privy or cesspool, or construct, rebuild, or unstop any drain or privy or cesspool which has been ordered by the council to be demolished or stopped up, or not to be made, every person so doing shall be liable to a fine not exceeding five pounds, and the council may cause such amendment or alteration to be made in any such drain or privy or cesspool as it may think fit, and the expenses thereof shall be paid by the person by whom such drain or privy or cesspool was improperly constructed, rebuilt, or unstopped, and shall be recoverable from him as herein-after provided.

Penalty for persons making or altering drains, &c. contrary to the orders of the council.

138. The council or any officer appointed by it for that purpose may, subject to the restrictions of this Ordinance, inspect any such drain or privy or cesspool, and for that purpose at any time may enter upon any lands and buildings with such assistants and workmen as are necessary, and cause the ground to be opened where such council or officer may think fit, doing as little damage as may be; and if upon such inspection it appears that the drain or privy or cesspool is not in good order and condition, or that it has been constructed after this Ordinance comes into operation contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such drain or privy or cesspool may belong, and shall be recoverable as herein-after provided; but if such drain or privy or cesspool be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Ordinance, the council or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expenses of the opening, closing, and making good such drain or privy or cesspool shall in that case be defrayed by the council.

Inspection of drains and privies.

139. The council may set apart sufficient public places, or any part of the seashore, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for

The council may set apart bathing places.

washing animals or clothes, and for all purposes connected with the health, cleanliness, and comfort of the inhabitants.

Power to fill up unwholesome tanks on private premises.

140. When any private tank or low marshy ground, or any waste or stagnant water being within any private enclosure, appears to the council to be injurious to health or to be offensive to the neighbourhood, the council shall by notice in writing require the owner of the said premises to cleanse or fill up such tank or marshy ground, or to drain off or remove such stagnant water; and if the said owner shall refuse or neglect to comply with such requisition during four days from the service thereof, the council, or its officers and workmen, may enter into the said premises and do all necessary acts for all or any of the purposes aforesaid, and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as herein-after provided.

Power to drain off and cleanse stagnant pools in open places.

141. The council is hereby empowered from time to time as it shall think fit to drain off into any sewers, and cleanse and fill up or otherwise abate any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure) which shall appear to it to be likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise, and the council, its officers and workmen, may do all necessary acts for effecting any of the purposes aforesaid, and the expenses incurred thereby shall be paid by the owner, and shall be recoverable as herein-after provided.

Council in executing works to provide roads, &c where existing ones injured.

142. The council in executing any works directed or authorized by this Ordinance to be made shall provide and make a sufficient number of convenient ways, watercourses, drains, and channels in the place of such as may be interrupted, injured, or rendered useless by reason of the execution of such works; and the council shall make reasonable compensation to any person who suffers damage by reason of the same, and the amount of such compensation, in case of dispute, shall be ascertained and determined in the manner herein-after provided.

Council breaking up street to restore the same with all convenient speed.

143. When the pavement or surface of any street or when any sewer or drain shall be opened or broken up by the council, it shall with all convenient speed complete the work on account of which the same shall have been broken up, and fill in the ground and make good the pavement and surface and the sewer or drain so opened or broken up, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such pavement or surface shall be so opened or broken up to be fenced and guarded and sufficiently lighted during the night.

Hoards to be set up during repairs.

144. Every person intending to build or take down any building, or to alter or repair the outward part of any building, where any street or footway will, by means of such work, be obstructed or rendered unsafe or inconvenient, shall before beginning the same, and having first obtained a license in writing from the council so to do, cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street or footway, and shall continue

such hoard or fence standing and in good condition to the satisfaction of the council during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night; and every such person who begins to build or take down or alter or repair any building contrary to the provisions of this section, or who without license erects or sets up any hoard, scaffolding, or fence whatsoever, or who, being licensed, fails to put up such fence or hoard, shall be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding five pounds for every day after conviction during which the offence is continued; and every such person who being licensed fails to continue such hoard, scaffolding, or fence standing and in good condition as aforesaid during the time aforesaid, or who does not while the said hoard or fence is standing keep the same sufficiently lighted during the night, or who does not remove the same when directed by the council within a reasonable time afterwards, shall be liable to a penalty not exceeding five pounds for every day during which the offence is continued after twenty-four hours notice in writing from the council.

Bars to be erected across streets during repairs, and lights placed at night.

145. The council shall during the construction or repair of any of the streets, sewers, or drains vested in the council, take proper precaution for guarding against accident by shoring up and protecting the adjoining houses, and shall cause such bars, chains, or posts to be fixed across or in any of the streets or roads to prevent the passage of carriages, carts, or other vehicles, cattle, or horses, while such works are carried on, as to it shall seem proper; and the council shall cause any sewer or drain or other works in streets during the construction or repair thereof to be sufficiently lighted and guarded during the night; and whoever takes down, alters, or removes any of the said bars, chains, or posts, or extinguishes any light, without the authority or consent of the councillors, shall be liable to a fine not exceeding five pounds.

Penalty for not fencing and lighting deposits of building materials or excavation.

146. No person shall deposit any building materials, or make a hole in any street, without the permission of the council, which shall be determinable at the discretion of the council; and when such permission is granted to any person, he shall at his own expense cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed or the hole is filled up or otherwise made secure to the satisfaction of the council, and shall cause the same to be sufficiently lighted during the night; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole, or otherwise make it secure, in the manner aforesaid when the permission has been withdrawn, shall be liable to a fine not exceeding five pounds, and shall also be liable to a further penalty not exceeding five pounds for every day while the offence is continued after twenty-four hours notice in writing from the council.

Dangerous places near streets to be repaired or enclosed.

147. If any building, tank, well, quarry of sand, earth, stone, or rock, or place for blasting stone or rock, or hole, or other place be, for want of sufficient repair, protection, or enclosure, in the opinion of the council, dangerous to passengers, the council shall

give notice in writing to the owner thereof to repair, protect, or enclose the same within twenty-four hours so as to prevent danger therefrom, and on failure to comply the council shall forthwith cause the same to be so repaired, protected, or enclosed, and the expenses of such repair, protection, or enclosure shall be paid to the council by such owner, and in default shall be recoverable as herein-before provided.

To regulate pasture lands, erect pounds, and make pound regulations.

148. The council may make byelaws for the due and proper care of the common pasture lands within the town, and therein specify and regulate the quantity of cattle or other animals which each inhabitant shall be allowed to keep and depasture on the said common lands, and of what kinds, and may also impose fines on any person contravening such byelaws, and may establish and erect pounds and appoint pound masters, and make all such pound regulations as shall be necessary or expedient: Provided always, that the said council shall not be authorized or permitted to dispose of, alienate, build upon, inclose, or cultivate any such common pasture lands, nor suffer any other person to build upon, inclose, or cultivate the same; and any such alienation by sale, gift, or otherwise, except with the sanction of the Governor and Executive Council, shall be null and void.

Proviso.

Council to abate nuisances.

149. The council shall take steps to remove, put down, and abate all nuisances of a public nature within the said municipality, or even on private premises, or which may tend either to injure the health or in any way affect the safety or the rights of the inhabitants at large, and if need be to proceed at law against any person committing any such nuisance for the abatement thereof and for damages; and further the said council shall, and it is hereby required, to cause all streets, watercourses, drains, roads, canals, and places within the said municipality to be kept clean and free from dirt, filth, or rubbish. The council is also empowered to give the notice prescribed by section 2 of "The Nuisances Ordinance, 1862," to be given by the Board of Health, and neglect of such notice shall subject the person neglecting to the fine thereby imposed.

XVII.—*Public Markets.*

Markets vested in council.

150. The public markets in any town and the lands at present used as such in any municipality are hereby vested in the council.

Council may make new markets.

151. It shall be lawful for the said council, and it is hereby empowered, from time to time as occasion may require, to keep up and establish within the limits of the said municipality a market or markets for the sale of cattle, meat, fish, poultry, vegetables, fruit, and the like, and to cause suitable houses or buildings to be built and erected for the convenience of persons attending, holding, and superintending such market or markets, and to cause the same to be kept in good and sufficient repair, and also to frame and make such byelaws for enforcing the payment of rent and other market charges, and for prohibiting the sale of cattle, meat, fish, poultry, vegetables, fruit, and the like, in places other than at the markets therefor provided by the council, and to impose such fines as it

shall think necessary for ensuring order and cleanliness within the said market or markets.

152. The council may make necessary bye laws for the due and proper care and inspection of weights and measures, and the quality and assize of bread, and the quality of meat, and it is hereby empowered by its officer at all times to visit and enter into shops or places for the purpose of assizing the bread, examining the weights and measures, and also of taking proper care that the provisions therein kept is good and wholesome.

To examine weights and measures, assize bread, and look to the wholesomeness of bread, meat, and fish.

XVIII.—*Regulations of Offensive and Dangerous Trades.*

153. No place shall be used as a slaughter-house within the town unless a license in writing for the use thereof as a slaughter-house has been obtained from the council, which is hereby empowered at its discretion from time to time to grant such licenses, and such license to suspend or revoke as it shall seem necessary; and whoever without such license uses a slaughter-house at any place within the town shall be punished with fine not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day after notice given by the council to discontinue the same.

Council may license slaughter-houses.

154. The council may from time to time, if it shall think fit, with the sanction of the Governor, provide places for the purpose of being used as slaughter-houses, and it shall in the manner herein-after provided make byelaws for and with respect to the management and charges for the use of such places.

Council to provide places for slaughter-houses.

155. Every owner, occupier, or farmer of any market for the sale of butcher's meat, poultry, fish, fruit, or vegetables, or of any slaughter-house within the town, shall cause such drains to be made therein as shall be considered sufficient by the council, and, if required so to do by the council, shall cause all the floors and drains to be paved with stone or burnt brick or other material, and shall also cause a supply of water to be provided sufficient for keeping such market or slaughter-house in a clean and wholesome state; and if such owner, occupier, or farmer, after notice in writing given to him by the council that such market or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within a reasonable time, make default, he shall be liable to a penalty not exceeding five pounds for every day during which such default is continued.

Markets, slaughter-houses, &c. to be properly drained.

156. Whoever during the period for which any such license is suspended, or after the same is revoked as aforesaid slaughters cattle or allows cattle to be slaughtered in the slaughter-house to which such license relates, and whoever during the period that the slaughtering of cattle in any such registered slaughter-house is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters cattle or allows cattle to be slaughtered in any such registered slaughter-house, shall be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding ten pounds for every day after notice given by the council to discontinue the same.

Penalty for using slaughter-houses during suspension or revocation of license.

Offensive and dangerous trades existing within certain limits to be registered.

157. The owner or occupier of every place within the town used at the time this Ordinance comes into operation, for any of the following purposes, namely, for boiling offal or blood, or as a soap-house, oil-boiling-house, dyeing-house, tannery, brick, pottery, or lime kiln, sago manufactory, gunpowder manufactory, manufactory of fireworks, or other manufactory or place of business from which either offensive or unwholesome smells arise, or used for any purposes which are calculated to be dangerous to life, or used as a yard or depôt for hay, straw, wood, or coal, shall within three months after this Ordinance comes into operation register the same at the office of the council in a book to be kept by it for that purpose ; and whoever after expiration of the said three months, and after eight days' notice in writing from the council or any of its officers, uses any such place without the same being registered, shall be liable to a penalty not exceeding ten pounds for every day during which the offence is continued.

Penalty for establishing such trades without license.

158. No place shall, after this Ordinance comes into operation, be established and used within the said town for any of the purposes mentioned in the preceding section, except under a license from the council, which is hereby empowered, at its discretion, from time to time to grant such licenses and to impose such terms therein as to them shall appear expedient, and no license for any of the said purposes shall be given by the Government Agent or Assistant Government Agent under section 4 of "The Nuisances Ordinance, 1862," in any town or place which is created a municipality under this Ordinance ; whoever without a license uses any such place for any of the said purposes shall be liable to a penalty not exceeding fifty pounds, and a further penalty not exceeding five pounds for every day after the conviction for such offence during which the said offence is continued.

Council may make byelaws for the management of such trades and places.

159. The council may make byelaws for the inspection of every place within the town used for any of the purposes mentioned in sections 156 and 157, and for the management and conduct of such business, whether the same be newly established or not, in such manner as it may think necessary and proper in order to prevent or diminish the noxious, injurious, offensive, or dangerous effect thereof.

Suspension or revocation of license.

160. It shall be lawful for the council to suspend or revoke such license if it shall appear necessary to them to do so: Provided that if such license be suspended or revoked, except on the ground of the owner having violated the license or any of the terms thereof, the council shall be liable to make compensation to the owner for the loss to which such suspension or revocation shall subject him ; whoever uses such place after notice that his license has been suspended or revoked, or permits it so to be used, shall be liable to a penalty not exceeding twenty pounds for every day after such notice during which it shall be so used.

XIX.—*Police.*

Expense of police.

161. The annual expenses of the police of each town constituted a municipality, exclusive of the salaries of the chief superintendent

of police, the provincial inspectors, and the cost of barracks, hospitals, and arms, as well as medical attendance, shall be paid out of the municipal fund of such town ; provided that it shall be lawful for the Governor to fix the force in number and value required for each town, and no reduction therefrom shall be made by the municipal council of such town without his sanction. Proviso.

XX.—*Mortgage of Rates and Taxes.*

162. It shall be lawful for any municipal council, with the sanction of the Governor and Executive Council, to borrow on mortgage as herein-after mentioned, such sums of money or any part of such sums as may be necessary for defraying any expenses to be incurred in the execution of any works undertaken under this Ordinance for the supply of any municipal town with gas and water, and for the construction of new markets, and with the like sanction to fix such rates of interest, and such periods for the repayment of the sums borrowed with interest, as it shall think fit ; and for the purpose of securing the repayment of the sums so borrowed with interest as aforesaid, the council may mortgage and assign over to the person or on behalf of whom such sums or any part thereof may be advanced, the rates and taxes imposed and levied under this Ordinance, and the rents of markets or the portion thereof upon the credit of which any such sums shall be borrowed : Provided always, that any money borrowed under the authority of this Ordinance shall be borrowed only to defray the expenses of works of a permanent character, and shall not at any time exceed in the whole ten times the average annual sum fairly estimated to be due. The council may borrow on security of rates and taxes. Proviso.

163. Every mortgage of rates or taxes authorized to be made under the provisions of this Ordinance shall be by deed free from stamp duty, in which the consideration shall be truly stated, and every such deed shall be according to the form in the Schedule (F.) to this Ordinance annexed, or to the like effect. Mortgages to be by deed.

164. Any person entitled to any such mortgage may transfer his right and interest therein to any other person, and every such transfer shall be by deed free from stamp duty, wherein the consideration shall be truly stated, and every such transfer may be according to the form in Schedule (G.) to this Ordinance annexed, or to the like effect. Transfer of mortgage to be by deed.

165. If the council can at any time borrow or take up any sum of money at a lower rate of interest than any securities given by them and then being in force shall bear, they may borrow such sum at such lower rate as aforesaid in order to pay off and discharge the securities bearing such higher rate of interest, and may charge the rates and taxes which they are authorized to mortgage under this Ordinance or any part thereof with payment of such sum and such lower rate of interest in such manner and subject to such regulations as are herein contained with respect to other monies borrowed and mortgaged. When and how council may pay off securities.

166. In order to discharge the principal money borrowed as aforesaid on security of any rates or taxes, the council shall every Sinking funds for payment of debts.

year appropriate and set apart out of such rates and taxes respectively a sum equal to at least one twentieth part of the sums so borrowed respectively as a sinking fund, to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Imperial, Indian, or Colonial Government securities, to be approved by the Governor and Executive Council, and to be increased by accumulation in the way of compound interest or otherwise, and which interest shall, when it amounts to a sufficient sum, in like manner be invested until the principal sum and interest respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof which the council shall think ought then to be paid off, at which time the same shall be so applied in paying off the same in manner herein-after mentioned.

Order of payment of mortgages may in certain cases be decided by lot.

167. Whenever the council shall be enabled to pay off one or more of the mortgages which shall be then payable, and shall not be able to pay off the whole of the same class, they shall decide the order in which they shall be paid off by lot among the class to which such one or more of the mortgages belong, and shall cause a notice signed by their secretary to be given to the persons entitled to the money to be paid off pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid together with the interest due thereon at a place to be specified, at the expiration of six months from the date of giving such notice.

XXI.—*General Provisions for carrying out the Purposes of this Ordinance.*

Service of notice on owners and occupiers of buildings and lands.

168. When any notice is required by this Ordinance to be given to the owner or occupier of any house, building, or land, such notice addressed to the owner or occupier, as the case may require, may be served on the occupier of such house, building, or land, or left with some adult member or servant of his family, or if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such house, building, or land, and it shall not be necessary in any such notice to name the occupier or the owner: Provided always, that when the owner and his residence are known to the council, it shall be its duty, if such owner be residing within the town, to cause every notice required to be given to the owner, and if he be not resident within the town it shall send every such notice by the post addressed to his residence.

Proviso.

Council in default of owner or occupier may execute works and recover expenses.

169. Whenever under the provisions of this Ordinance any work is required to be executed by the owner or occupier of any house, building, or land, and default is made in the execution of such work, the council, whether any penalty is or is not provided for such default, may cause such work to be executed, and the expenses thereby incurred shall be paid by the person by whom such work ought to have been executed, and shall be recoverable as herein-after provided.

170. If the defaulter be the owner of the house, building, or land, the council may, by way of additional remedy, whether an action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then or at any time thereafter occupies the house, building, or land under such owner; and in default of payment thereof by such occupier on demand the same shall be levied by distress of the goods and chattels of such occupier; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from such occupier in respect of any such expenses, and to retain possession until such expenses shall be fully reimbursed to him.

Power to levy charges on occupier, who may deduct the same from his rent.

171. No occupier of any house, building, or land shall be liable to pay more money in respect of any expenses charged by this Ordinance on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the councillors, truly to disclose the amount of his rent and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier: Provided further, that nothing herein contained shall be taken to affect any special contract made between any such person, owner, or occupier, respecting the payment of the expense of any such works as aforesaid.

Occupiers not to be liable to more than the amount of rent due.

Proviso.

172. Whenever default is made by the owner of any house, building, or land in the execution of any work required to be executed by him, the occupier of such house, building, or land may, with the approval of the council, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner. The owner shall not be entitled to eject the occupier until such expense shall have been fully paid or deducted as aforesaid.

Occupier in default of owner may execute works and deduct expenses from his rent.

173. If the occupier of any house, building, or land prevent the owner thereof from carrying into effect in respect of such house, building, or land, any of the provisions of this Ordinance, after notice of his intention so to do has been given by the owner to such occupier, the bench of magistrates upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for carrying into effect the provisions of this Ordinance, and may also, if he think fit, order the occupier to pay to the owner the costs relating to such application or order, and if after the expiration of eight days from the date of the order such occupier continue to refuse to permit such owner to execute such works,

Proceedings if an occupier opposes the execution of the Ordinance.

such occupier shall for every day during which he so continues to refuse be liable to a penalty not exceeding five pounds, and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Remedy if neither the owner nor occupier be able to pay.

174. If neither the owner nor the occupier be able to pay the expenses incurred by the council, the same shall be a charge upon the land in respect of which the expenses were incurred, and payable as a debt due to the council.

Right of entry in houses.

175. Whenever under the provisions of this Ordinance the municipal councillors or others acting under their orders or authority, or having themselves authority under this Ordinance, shall have occasion to enter into any house for purposes of inspection or for any other purpose, they shall be empowered to do so.

Council may direct prosecution.

176. The council may direct any prosecution for any nuisance whatsoever, and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Ordinance, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund; provided that any inhabitant of a place may complain of the existence of a nuisance to the council, and the council shall then inquire into the complaint so made and may make order for abating or remedying the same: Provided that nothing herein contained shall be held to preclude any inhabitant from proceeding against the municipal council by mandamus or other proceeding to compel them to put the provisions of the Ordinance in force for abating or remedying a nuisance, or in any other respect, or to restrain them from an undue or illegal exercise of authority.

Proviso.

No action to be instituted against council until after one month's notice or three months after cause of action.

177. No action shall be instituted against the council or councillors, or any of the officers of the council, or any person acting under the direction of the council, for anything done or intended to be done under the powers of this Ordinance, until the expiration of one month next after notice in writing shall have been given to the council or to the defendant, stating with reasonable certainty the cause of such action, and the name and the place of abode of the intended plaintiff and of his attorney or agent in the cause; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved the court shall find for the defendant, and every such action shall be commenced within three months next after the accrual of the cause of action and not afterwards; and if any person to whom such notice of action is given shall, before action brought, tender sufficient amends to the complainant such complainant shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs by the complainant; and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the court where such action shall be pending, at any time before issue framed to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as

in other cases where defendants are allowed to pay money into court.

178. The council may make compensation out of the municipal fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the council, its officers or servants, under and by virtue of this Ordinance.

Council may make compensation out of municipal fund.

179. When any license is granted by the council under the provisions of this Ordinance authorizing the use of any place for any of the purposes herein described, and when permission is given by the council for making any temporary erection or for putting up any projection, the council may charge a fee for such license or permission, and the rates of the fees to be so charged shall be from time to time adjusted by the council, with the sanction of the Governor and Executive Council: Provided that no such fee shall exceed the sum of five pounds, and the fees shall all be taken to the credit of the municipal fund. When permission or license is given for the temporary occupation of any ground belonging to the council, the council may charge rent for such ground according to the time the occupation may continue, at such rates as may from time to time be fixed by it.

Fees for certain licenses.

180. Except as herein otherwise provided, in all cases when compensation, damages, costs, or expenses are by this Ordinance directed to be paid, the amount, and if necessary the apportionment of the same in case of dispute, shall be summarily ascertained and determined by the district court.

Compensation, damages, and costs to be determined by the district court.

181. If the amount of compensation, damages, cost, or expenses be not paid by the party liable to pay the same within seven days after demand, such amount may be reported to such court and recovered in the same way as if it were a fine imposed by such court.

Recovery of damages.

182. No person shall be liable to any fine or penalty under this Ordinance for any offence made cognizable before a magistrate, unless the complaint respecting such offence shall have been made before a magistrate or the bench of magistrates within three months next after the commission of such offence.

No person liable to fine or penalty unless complaint be made within three months after the offence was committed.

183. If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Ordinance, any damage to the property of the council shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of such damage shall in case of dispute be determined by the court or bench by which the party incurring such penalty shall have been convicted, and the amount of such damage shall be recovered as if it were a fine imposed by the court.

Damage to property of municipality to be made good in addition to penalty.

184. When the council shall have incurred any expense in executing any of the works which under this Ordinance the owners of any houses, buildings, or lands are required to execute, the council may either recover the amount of such expenses in the manner herein-before provided, or if it think fit may take engagements from the said owners for the payment by instalments of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of nine per

Recovery of expenses on account of improvement to private property.

centum per annum, within a period not exceeding five years, and such sums when due may be recovered by the same process by which rates may be recovered under this Ordinance.

Acts and notices may be done and given by secretary or any other officer authorized thereunto.

185. All acts and notices which the council or councillors are empowered to do or give by this or any other Ordinance, other than the magisterial powers hereby conferred, may be done and given by the secretary of the council, or by any other of its officers, he or they being authorized thereunto by the council.

Rates, taxes, &c. to be vested in Colombo and Kandy councils from January 1866.

186. Whereas the preliminaries prescribed by this Ordinance for the formation of the municipal councils in Colombo and Kandy cannot all be complied with before the commencement of the year now next ensuing: It is therefore enacted, that any delay in the formation of such councils shall not affect their right, when formed, to make and assess the rate under section 53, levy the tax under section 55, impose and enforce the rate or commutation under section 56, and take and receive the tolls, duties, fees, and sums under sections 57, 58, 59, and 60, from the first day of January next, from which date the said rates, taxes, tolls, duties, fees, and sums shall be vested in the said councils in Colombo and Kandy, notwithstanding that the formation thereof may be delayed till after the said first day of January.

SCHEDULE.

A.

Section 32.

FORM OF OATH OF ALLEGIANCE.

I do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria.

So help me God.

FORM OF OATH OF OFFICE.

I do sincerely promise and swear that I will faithfully and diligently and impartially execute to the utmost of my abilities the several duties of a magistrate within this municipality.

So help me God.

B.

Section 55.

	£	s.	d.
For every carriage of whatever description other than a cart or hackery - -	0	10	0
For every cart or hackery of whatever description - - - -	0	6	0
For every horse, pony, or mule - -	0	5	0
For every bullock or ass - - -	0	2	0

Children's carriages the wheels of which do not exceed 24 inches in diameter are exempted.

C.

Section 63.

FORM OF NOTICE OF ASSESSMENT.

Municipality of Colombo.

No. Municipal Council Office,
186 .

To

Take notice that by virtue of "The Municipal Councils Ordinance, 1865," the municipal council for Colombo have ordered you to be assessed in respect of the under-mentioned property at the sums hereunder set forth.

Property assessed.	Annual Value as assessed.	Amount of Rate payable, and Times of Payment in all for the Year.			
		On the	day	186	£
		"	"	"	£
		"	"	"	£
		"	"	"	£
				or, as the case may be.	

Date of service
day of

You are hereby required to pay the amount of the above rate (*or* rates) into the office of the treasurer of the municipality, in the proportions and at the times shown above; in failure whereof a warrant will be issued by the council for the recovery of the same with costs.

A.B., Secretary.

D.

Section 82.

FORM OF WARRANT OF DISTRESS AGAINST DEFAULTERS.

To and his assistants.

Whereas the persons named in the schedule under written, have been rated by the municipal council of Colombo (*or* been taxed under the section of the Municipal Councils Ordinance, 1865, *as the case may be*) at the sums opposite their respective names; and whereas the said persons have made default in the payment of the said several sums to the treasurer of the municipality, and the said sums are still due and owing, although notice demanding payment of the same was served on the said persons: These are therefore to order you forthwith to seize the property of the said persons, or the moveable property of any person whomsoever which you may find in or upon the premises in the said schedule mentioned; and if within the space of four clear days next after the said seizures respectively the said several sums set

opposite to their respective names, together with the costs in the said schedule mentioned in each case, shall not be paid, then to sell the property seized by public auction, and the overplus (if any), after payment of the rate due (*or* taxed, *as the case may be*) and costs, to restore to the owner or any joint owner of the property so sold; and that you do certify to me on or before the day of what you shall have done by virtue of this warrant.

SCHEDULE.

Names of Defaulters.	Description of Properties.	Situation of Properties.	Amount of Rates or Tax.	Costs.	Total.		

Given under my hand at this day of

(Signed) *A.B.*
Chairman.

The form and schedule to be varied as may be necessary in the case of tax.

E.

Section 85.

CERTIFICATE OF SALE.

Whereas of was rated (*or* taxed, *as the case may be*) under "The Municipal Councils Ordinance, 1865," and became liable in the sum of £ inclusive of costs, and made default in the payment thereof; and whereas warrant of distress was issued in conformity with the said Ordinance, and the property of the said to wit (*here describe the property*), was sold on the day of and the same was purchased by for the sum of £ which has been duly paid by the said

Now know ye that I the chairman of the said municipal council, by virtue of the powers in me vested by the said Ordinance, do hereby certify that such sale and purchase have duly taken place, and that the property above described is and shall henceforward be vested in the said his heirs, executors, administrators, and assigns for ever.

Given under my hand at this day of

A.B., Chairman.

F.

Section 163.

FORM OF MORTGAGE.

No._____

By virtue of the Ceylon Municipal Councils Ordinance, 1865, the municipal council of in consideration of the sum of £ paid to it to the credit of the fund of the said council by *A.B.* of for the purposes of the said Ordinance, grant and assign unto the said *A.B.*, his heirs, executors, administrators, representatives, and assigns, such portion of the rates and taxes arising or accruing by virtue of the said Ordinance from (*here describe the rates or taxes proposed to be mortgaged*) as the said sum of doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates and taxes, to hold to the said *A.B.*, his heirs, executors, administrators, representatives, and assigns, from this day until the said sum of £ with interest at per cent. per annum for the same shall be fully paid and satisfied (the principal sum to be repaid at the end of years from the date hereof, and in the meantime interest thereon to be payable half yearly) (*in case any period be agreed upon for that purpose*).

Given this day of One thousand eight hundred and sixty-

(Signed) *A.B.*, Chairman.
C.D., Secretary.
E.F., Treasurer.

G.

Section 164.

FORM OF TRANSFER OF MORTGAGE.

I, *A.B.* of in consideration of the sum of paid to me by *C.D.* of do hereby transfer to the said *C.D.*, his heirs, executors, administrators, representatives, and assigns, (*a certain mortgage, Number*) made by the municipal council of bearing date the day of for securing the sum of and interest (*or if such transfer be by endorsement* the within security), and all my right, estate, and interest in and to the money thereby secured, and in and to the rates and taxes thereby assigned. In witness whereof I have hereunto set my hand and seal this day of one thousand eight hundred and sixty-

22nd November 1865.

161.

No. 20 OF 1865.

An Ordinance to provide against the Removal of Stones and other substances from certain parts of the Seashore.

Preamble.

WHEREAS many of the public roads and thoroughfares in this Colony are seriously injured by the removal of stones or other substances from the seashore adjoining or near such roads and thoroughfares, and it is expedient to prohibit such removal: It is enacted as follows:

Agent may prohibit removal of stones, &c. from any locality.

1. It shall be lawful for the Government Agent of any province to prohibit the removal of stones or other substances from the seashore adjoining or near public roads and thoroughfares in any part of the district within his province, if such removal should, in his judgment, be calculated to injure such roads and thoroughfares; and he shall cause notice of such prohibition to be given in the district, by such means as shall seem to him likely to give the greatest publicity thereto.

Penalty for removal after prohibition.

2. Whoever, after such notice of prohibition, shall break or remove stone or other substances from any place from which such breaking or removal shall be prohibited, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, not exceeding three months, or to both; and the stone or substance shall be liable to be seized, and to be disposed of as the Government Agent or any Assistant Government Agent shall direct.

29th November 1865.

162.

No. 22 OF 1865.

An Ordinance to establish the validity of a Lease of a portion of the Parsonage Land at Nuwara Eliya.

Preamble.

Conveyance of land to trustees.

WHEREAS by virtue of a conveyance bearing date at Caltura the 28th day of October 1853, the late Francis James Templer granted, bargained, sold, assigned, and set over, for the consideration therein named, a tract of land at Nuwara Eliya, bounded on the north, east, and west, by other land belonging to the said Francis James Templer, and on the south and south-west by a river, and containing in extent thirty acres, according to a survey to the said conveyance annexed, to Robert Temple, Samuel Baker, and Raymond Richard Pelley, the then trustees of the episcopal church at Nuwara Eliya, and to their successors the trustees for the time being:

Lease by trustees to A. P. Lovekin.

And whereas Robert Temple, Arthur Edward Carey, and Mark Kellow, then trustees of the said church at Nuwara Eliya, on the

Parsonage Land at Nuwara Eliya.

24th day of August 1863, leased, for the consideration therein named, a portion of the land above described, three acres in extent, to Alfred Peter Lovekin, his executors, administrators, and assigns, for the term of seventy years, commencing from the 31st day of December 1863, with power to the said Alfred Peter Lovekin to erect buildings thereon, and to plant and improve the same at his and their free will and pleasure:

And whereas the said Alfred Peter Lovekin has erected a certain house on the land so leased, and has planted and improved the same; but doubts have been raised as to the validity of the lease and the power of the said trustees to make the same:

Land built upon and improved.

Doubts as to validity of lease.

And it has been represented by Piers Claveley Claughton, the Lord Bishop of Colombo, and Thomas Skinner, James Fowler, William Kellow, and Christopher Edmund Temple, the present trustees of the said church, that the value of the entire land made over for the use of the parsonage, as firstly herein recited, has been considerably increased by the buildings and improvements made by the said Alfred Peter Lovekin under the said lease secondly herein recited, and the said bishop and trustees, on the one hand, and Alfred Peter Lovekin, on the other, have applied to the Government for an Act of the Legislature to remove the doubts above mentioned:

Representation by bishop and trustees for Ordinance to remove those doubts.

And whereas it is clear that such lease was made in good faith, and that it was and is beneficial and profitable to the interest of the trust established by the conveyance firstly above recited, and that it is expedient to confirm the same:

Expediency of passing Ordinance.

1. It is enacted that the said lease secondly above recited shall be and the same is hereby declared valid to all intents and purposes.

Lease declared valid.

2. Provided, however, that nothing herein contained shall affect the rights of Her Majesty, her heirs and successors, and of all bodies politic and corporate, and of all other persons, excepting those at whose instance or for whose special benefit this Ordinance has been passed, and those claiming by, from, through, and under them.

Saving clause.

13th December 1865.

163.

No. 24 of 1865.

An Ordinance to authorise the Shooting of Cattle trespassing on the Line of Railway.

Whereas the provisions already made to prevent cattle trespassing on the railway are ineffectual to secure the desired end, and there is reason to fear that, unless more stringent measures be

Preamble.

adopted, serious accidents will occur: It is hereby enacted as follows:

Director General may empower cattle trespassing on railway to be shot.

1. It shall be lawful for the Director General of the Railway, with the sanction of the Governor, by written authority, to be by him for that purpose issued, and subject to such conditions and limitations as shall be therein specified, to empower any person named therein to shoot cattle trespassing on the line of railway, and such authority from time to time to recall, if to the Director General it shall appear expedient so to do.

Persons shooting exempted from liability.

2. Any person empowered as aforesaid may lawfully shoot and kill cattle trespassing on the line of railway, and shall not be subject to any liability, civil or criminal, for doing so.

Abuse of authority.

3. Any person who shall abuse the authority so given to him, or shall wilfully exceed the terms thereof, or shall in any way act contrary to the conditions and limitations therein specified, shall, in addition to any civil liability he may incur by such act, be liable to a fine not exceeidng ten pounds, or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both.

30th December 1865.

164.

No. 26 OF 1865.

An Ordinance relating to the Establishment of a Wharf and Warehouse Company.

Preamble.

WHEREAS it is desirable to promote the establishment in Colombo of a company to perform the duties of wharfingers and warehousemen: It is therefore enacted as follows:

Short title.

1. This Ordinance shall be cited for all purposes as "The Wharf and Warehouse Ordinance, 1865."

2. Has had its effect.

Repeal of portion of 21st and the 64th sections of Ordinance 18 of 1852, so far as both extend to Colombo.

3. So much of the 21st clause of the Ordinance No. 18 of 1852, entitled, "An Ordinance to consolidate and amend the Laws relating to the Customs," as relates to the period at which entry of goods shall be made and rent charged thereon, and the 64th clause, so far as they extend to Colombo, are hereby repealed, save and except so far as they relate to goods already warehoused or detained for freight, and so far as they affect rights which shall have accrued, liabilities which shall have been incurred, and acts which shall have been done, and all proceedings or matters which shall have taken place before this Ordinance shall come into force.

Interpretation of terms.

4. The following terms used in the sections of this Ordinance herein-after contained shall have the respective meanings hereby

assigned to them, if not inconsistent with the context or subject matter; that is to say:

The word "company" shall mean the company to be proclaimed under the fifth section of this Ordinance:

The word "goods" shall include every description of goods, wares, and merchandise:

The word "premises" shall mean all lands and buildings used by the said company for the carrying on of their business as wharfingers, warehousemen, and carriers:

The word "wharf" shall include all wharves and quays used by the said company, whether exclusively or jointly with others, in or upon which any goods when landed from vessels or brought for shipment may be lawfully placed:

The word "warehouse" shall include all warehouses, buildings, and premises used by the said company, in which goods when landed from ships, or brought for shipment, may be lawfully placed:

The word "shipowner" shall include the master of the ship, and every other person authorized to act as agent for the owner, or entitled to receive the freight, demurrage, or other charges payable in respect of such ship:

The word "report" shall mean the report required by any customs laws to be made by the master of any importing ship:

The word "entry" shall mean the entry required by any customs laws to be made for the landing, shipment, or discharge of goods:

The expression "owner of goods" shall include every person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien, if any, to such lien.

Governor by proclamation may empower a company to perform duties of wharfingers and warehousemen.

5. It shall be lawful for the Governor, with the advice and consent of the Executive Council, if it shall be shown to their satisfaction that a company has been formed and incorporated in Colombo for the purpose of carrying out the provisions of this Ordinance, and that such company is in a position to perform with advantage to the public the duties devolving upon them, to empower by proclamation, to be for that purpose issued and published in the "Government Gazette," such company to undertake and perform the duties of wharfingers and warehousemen under the provisions of this Ordinance in landing, shipping, and warehousing goods.

Rules and regulations.

6. The said company so proclaimed as aforesaid shall thereupon be entitled to act as wharfingers and warehousemen, and the directors thereof for the time being shall be empowered to make, ordain, and establish rules and regulations as to them shall seem expedient for any of the following purposes:

(1.) For the good government of the company and its officers:

(2.) For the regulating, conducting, governing, and managing the business of the company and the several works from time to time carried on by them:

(3.) For the safe and convenient shipping and lading, landing and discharging, carrying and conveying, laying, warehousing, and depositing of goods upon, to, or from the quays, wharves, and premises of the company:

(4.) For regulating the hours during which the premises of the company shall be open:

(5.) For preventing accidents by fire, and in particular as to the lighting or using of candles, fires, and lamps, and as to the smoking of tobacco or herbs, within the premises of the company:

(6.) For governing and regulating porters, coolies, carmen, and others carrying goods or using or driving horses, bullocks, trucks, carts, sledges, or other carriages, within the premises of the company:

(7.) For preventing damage being done to any goods.

And such rules and regulations from time to time to alter, amend, and revoke: Provided that such rules or regulations shall not be inconsistent with this Ordinance, and that they shall not come into force until the same shall have been submitted to and confirmed by the Governor, with the advice and consent of the Executive Council; and the Governor, with the advice and consent aforesaid, shall have the power to disallow any rules or regulations after they shall have come into force.

Tramways.

7. The company, so proclaimed shall be empowered, with the sanction of the Governor previously obtained, to lay down within the customs premises and on any of the roads and streets of Colombo, tramways to connect their warehouses with each other, with landing and shipping places, and with the railway terminus.

Power to take rates on goods.

8. The said company so proclaimed shall and may take or receive for every article of goods which shall be brought into or landed or deposited within or delivered or shipped from their premises, such reasonable rates, rent, or sums as the said directors shall from time to time appoint, for and in respect of wharfage, unshipping, landing, re-landing, piling, housing, weighing, coopering, sampling, unpiling, unhousing, watching, shipping, loading, and delivering of every such article, and of other work to be performed in respect of such goods; and all such rates, rent, or sums shall be and are hereby vested in the said company to and for their own proper use and behoof for the purposes of this Ordinance: Provided that the rates, rent, or charges to be enforced by the company shall not exceed the maximum rates to be prescribed by the Governor, with the advice and consent of the Executive Council, in a proclamation to be for that purpose issued and published in the "Government Gazette;" and it shall be competent to the Governor, with the advice and consent of the Executive Council, to revise the schedule at the end of the tenth and twentieth year after the date of the proclamation in the fifth section mentioned, and if need be to reduce the same; but such reduction not to exceed twenty per cent. of the rates to be at first prescribed.

9. The directors of the said company so proclaimed shall cause all rules and regulations, and all rates, rents, and sums, to be printed in the "Gazette," and separate copies thereof to be printed and distributed in Colombo, in the English and native languages, and affixed upon or to some public and conspicuous part of the wharves and premises, and shall renew the same as often as they shall become obliterated or defaced.

Rules and regulations to be published.

10. Any person committing a breach of the said rules shall be liable to a fine not exceeding one pound.

Breach of the rules made penal.

11. The company so proclaimed shall and will, during the time that it shall perform the duties of wharfingers and warehousemen, provide the public with such suitable means and accommodation for the landing and shipping of goods, and suitable buildings and lands for storing and warehousing the same, as the exigencies of trade may require.

Company to provide suitable accommodation and buildings.

12. It shall be lawful for the Principal Collector of Customs, before any goods shall be landed, deposited, or warehoused, on or in any premises of the company, and from time to time thereafter, as to him shall seem necessary, to require the company to give due and sufficient security for the payment of the full duties of importation on, or for the due entry for exportation of, all such goods as shall at any time be landed, deposited, or warehoused in the premises of the company.

Collector may require security.

13. All goods which shall come into or upon the premises of the company shall be subject to the duties imposed, and the regulations and the restrictions prescribed by the customs' laws now in force or hereafter to be enacted; and the said company shall not part with any goods which shall come into or upon their wharves and premises without an order authorising their delivery from the Principal Collector of Customs.

Goods in company's premises subject to customs' laws.

14. All goods warehoused in the customs' premises at the time of the transfer of such premises to the company shall be delivered to the custody of the company on their paying the warehouse rents and charges due thereon, or engaging to pay the same previous to the delivery of such goods to the owners or consignees thereof; and the company shall in such case have power to demand and to enforce payment of the said rents and charges so due, as well as the rent and charges due to them subsequent to such transfer.

Rents and charges due to the Government at the transfer.

15. All rates, charges, and rent which shall be payable to the said company in respect of any goods shall be paid to the said company within the periods and in manner following; (that is to say), if the said goods shall be of a perishable nature, then within ten days next after any such goods shall have been brought into or upon the premises of the said company, and if the said goods shall not be of a perishable nature, then at or before three months after any such goods shall have been brought into or upon the premises of the said company, or previous to the removal of such respectively from the premises of the said company, whichever shall first happen; and in case default be made in payment of the said rates, rent, or charges, or any part thereof, (whether such goods be of a perishable nature or not), it shall be lawful for the

Recovery of rates payable on goods.

company to retain and sell, or cause to be sold, all or any part of such goods; and out of the monies thence arising to pay first the amount of the duties due in respect of such goods, and then to pay the rates, rent, or charges which shall be payable to the said company in respect of such goods, and all charges and expenses of such sale, rendering the overplus (if any) of the monies arising by such sale, and such of the said goods as shall remain unsold, to the person or persons entitled thereto, upon demand; and in case such goods shall happen to be removed before the rates, rent, or charges payable to the company in respect of the same shall be fully paid, then it shall be lawful for the said company to take, distrain, and sell any goods on their premises of the owner or owners, consignee or consignees thereof: Provided always, that it shall and may be lawful for the said company in all or any of the several cases aforesaid to recover the amount of the rates, rent, or charges by action at law.

Right of entry of customs officers.

16. The officers of customs shall, in the performance of their duties, have power and authority at all times to enter into and remain upon any premises in the possession of the company. Any person who shall oppose any officer in the exercise of such power shall be guilty of an offence, and be liable to such punishment, by fine and imprisonment as it shall be competent for the court before which he is tried to award.

Lien for freight reserved.

17. If at the time when any goods are landed from any ship, and placed in the custody of the company, the shipowner gives to such company notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount to be mentioned in such notice, the goods so landed shall, while in the custody of the company, continue liable to the same lien for such charges as they were subject to before the landing thereof; and the company receiving such goods shall retain them until the lien is discharged as herein-under mentioned, and shall, if it fail so to do, make good to the shipowner any loss thereby occasioned to him.

Lien discharged on payment of charges.

18. Upon the production to the company of a receipt for the amount claimed as due, and delivery to the company of a copy thereof, or of a release of freight from the shipowner, the said lien shall be discharged.

Lien discharged on deposit of money.

19. The owner of the goods may deposit with the company a sum of money equal in amount to the sum so claimed as aforesaid by the shipowner, and thereupon the lien shall be discharged, but without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

Notice to retain must be given.

20. If such deposit as aforesaid is made with the company, and the person making the same does not within seven days after making it give to the company notice that he has brought his action to recover the money his liability to pay which is disputed, the company may, at the expiration of such seven days, pay the sums so deposited, or any portion thereof which is admitted, over to the shipowner, and shall by such payment be discharged from all liability in respect thereof.

21. If such deposit as aforesaid is made with the company, and the person making the same does, within seven days after making it, serve on the company notice that he has brought his action aforesaid, the company shall immediately pay into court, as a deposit in the said action, the sum the liability to pay which is disputed. If any portion of the amount deposited with the company is admitted by such notice to be payable to the shipowner, the company shall pay such portion to the shipowner. The court shall receive the sum deposited by the company to be paid over to the party who shall be declared ultimately entitled to the same.

Proceedings when such notice is given.

22. If the lien is not discharged, and no deposit is made as herein-before mentioned, the company may, and if required by the shipowner shall, at the expiration of ninety days from the time when the goods were placed in its custody, or, if the goods are of a perishable nature, at such earlier period as the company in its discretion thinks fit, sell by public auction, either for home use or exportation, the said goods, or so much thereof as may be necessary to satisfy the charges herein-after mentioned.

Sale of goods if no deposit be made.

23. Before making such sale the company shall give notice thereof by advertisement in the "Gazette," and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the company, or is otherwise known to it, give notice of the sale to the owner of the goods by letter sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send notice as herein-before mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Notice of sale.

24. In every case of any such sale as aforesaid the company shall apply the monies received from the sale as follows, and in the following order:

Application of proceeds.

(1.) If the goods are sold for home use, in payment of any customs duties owing in respect thereof:
(2.) In payment of the expenses of the sale:
(3.) In payment of the rent, rates, and other charges due to the company in respect of the said goods:
(4.) In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods:
(5.) The surplus, if any, shall be paid to the owner of the goods.

25. Nothing herein contained shall compel the company to take charge of any goods which it would not be liable to take charge of if this Ordinance had not passed, nor shall it be bound to see to the validity of any lien claimed by any shipowner.

Company not bound to receive all goods, or see to the validity of any claim for lien.

26. Whenever goods are placed in the custody of the company, they shall have power from time to time, at the expense of the owner of the goods, to do all such reasonable acts as in the

Company to do acts necessary for proper

custody and preservation of goods.

judgment of the company are necessary for the proper custody and preservation of the said goods, and shall have a lien on the said goods for the said rent and expenses.

Goods of dangerous quality.

27. Every person who shall bring, or send, or cause to be brought or sent, to the premises of the company for shipment or deposit any aquafortis, oil of vitriol, or other goods of dangerous quality, shall distinctly mark or state in the English language the nature of such goods on the outside of all packages containing the same, and shall likewise give notice thereof in writing to the chief officer of the company at the time of bringing or sending the said goods to the wharf or premises. Any person failing to mark or state as aforesaid, or to give such notice, shall be liable to a fine not exceeding twenty pounds, and the company may detain such goods until such fine be paid.

Penalty for not removing combustibles when required

28. If the owner or person having the charge of any tar, pitch, spirituous liquors, turpentine, or any combustible matter whatsoever, shall suffer the same to remain on the quays or wharves of the company, or any part of their premises, above the space of five hours after he shall have been required by any officer of the company to take away or remove the same therefrom, then and in every such case every such person so offending shall, for every such offence, be liable to a fine not exceeding five pounds, nor less than the sum of twenty shillings, for every hour that any of the articles herein-before specified, or any other combustible matter, shall be or remain in the place or situation aforesaid after the expiration of the said five hours.

Combustibles to be guarded during the night

29. If any tar, pitch, spirituous liquors, turpentine, oil, or other combustible thing shall remain on any part of the wharves or premises occupied by the company after sunset, and the owner or person having the charge of the same shall not provide a sufficient number of persons to guard the same from half an hour before sunset to half an hour after sunrise, it shall be lawful for the company to provide such persons, and the expense thereof, if not paid by the said owner to the company on demand, shall be recovered by the sale of such portion of the said articles as shall be sufficient to meet such expenses.

Dock warrants.

30. The company may issue warrants in substantially the form A. to this Ordinance annexed, to the owner of any goods enumerated therein which may be in their custody; and such warrants shall be transferable once or oftener by endorsement, and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof, without any endorsement save that of the original grantee. Each warrant shall be on a stamp of threepence.

General sufferance of goods

31. No cargo or goods shall be unladen from any ship on or into the premises of the company until a sufferance shall have been granted by the Principal Collector of Customs for the landing of the same, in manner provided by section 21 of the Ordinance No. 18 of 1852, or any Ordinance to be hereafter in that behalf enacted; and no goods shall be landed except at the places

appointed and expressed in such sufferance, and only such goods shall be landed as are sanctioned by such sufferance, and all goods so landed shall be taken and deposited in any warehouse appointed therein ; and within two clear days from the date of landing the importer shall make a full and complete entry thereof, and shall either pay down all duties which shall be due and payable on such goods, or shall duly warehouse the said goods, or if such goods be free of duties, duly clear the same ; and all goods unladen, landed, or removed without such sufferance, or contrary to the directions in such sufferance, shall be liable to be forfeited.

Goods to be removed or warehoused within two clear days from the date of landing.

Goods landed contrary to or without sufference forfeited.

32. If the owner or consignee of any goods shall fail to make entry thereof, and remove the same within two clear days, as provided by the foregoing section, it shall be lawful for the said company to cause a warehousing entry to be passed for such goods, and to remove the same to their warehouse; and the expenses of such entry, removal, and warehousing shall be reimbursed to the said company by the owner or consignee of the goods so entered as aforesaid, and shall and may be recoverable in the like manner as the rates, rent, or charges due and payable to the said company in respect of such goods : Provided that the goods be such as may by law be warehoused, and that no goods entered by the said company as aforesaid shall be liable to seizure by reason of any inaccuracy in the passing of any such entry, if it shall appear to the Principal Collector of Customs that such inaccuracy was not intentional, or occasioned by wilful or culpable negligence.

Company may pass entries when the owners of goods neglect or refuse to pass them.

33. All goods which the Principal Collector of Customs shall pass free of duty under the provision of section 37th of the said Ordinance No. 18 of 1852, or any Ordinance to be hereafter in that behalf enacted, shall be exempt from warehouse rent if entered and removed within five days from the date of landing.

Goods consigned to public departments not liable to rent if removed within five days.

34. The master of every importing ship shall deliver at the office of the company, within twenty-four hours after he shall have reported his vessel at the Custom House, a true copy of the manifest or report of the cargo thereof in like form as that required to be delivered at the Custom House by any customs laws now in force or to be hereafter in that behalf enacted.

Master to give copy of manifest or report to company.

35. Nothing in this Ordinance contained shall be held to interfere with the right of the public to employ boats other than those to be provided by the company for the landing and shipping of goods, and for such purposes and other lawful business to have free access, subject to the rules and regulations of the company, to or from the landing places : Provided, however, that all work within the premises of the company may, if the company so require it, be performed by the servants of the company at the prescribed rates.

Right of public to land their own goods reserved.

SCHEDULE.

A.

WARRANT No.

No. of entry
No. of warrant
Date
Ship
Master
From
Entered
By
Rent begins
Goods
Marks & Nos.

No. of Entry
Ledger Fol.
WARRANT for
imported in the
Entered by
Deliverable to
or to any possessor of this warrant without any endorsement save that of the said
Rent commences

Warehouse No.

Master from
date

Threepence Stamp.

and all other charges

Warehouse No.

Examination.

Deliver the within to *C.D.*

A.B.

C.D.

30th December 1865.

165.

No. 27 of 1865.

To amend and consolidate the Laws relating to the Post Office, and to the Rates of Postage.

Preamble.

WHEREAS it is expedient to amend and consolidate the laws relating to the post office and the rates of postage: It is enacted as follows:

I.—*Preliminary.*

Short title.

1. This Ordinance may be cited for all purposes as "The Postal Ordinance, 1865."

2. Has had its effect.

Interpretation clause.

3. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction:

"Postmaster General" shall mean the Postmaster General of this Island, or the person for the time being lawfully executing the duties of his office:

"Deputy Postmaster General" shall mean any person specially appointed as such by the Governor, for any province or district, or any local authority discharging the duties thereof in the absence of any person so specially appointed as aforesaid:

"Assistant" shall mean any assistant of the Postmaster General, or of any Deputy Postmaster General, whether in the office of such Postmaster General or Deputy Postmaster General, or in any place where any such official shall not be resident:

"Newspaper" shall include every bonâ fide supplement to a newspaper published and issued with the newspaper itself, and any periodical publication in the nature of a newspaper:

"Post Letter" shall include any letter, packet, parcel, or other article or thing transmitted by the post under the authority of the Postmaster General:

"Official Letter" shall mean any letter on public business sent by any public department or an authorized official thereof.

4. Repealing clause.

II.—*Letters.*

5. For carrying on the service of the post office, it shall be lawful for the Governor to appoint such officers, with such official styles or designations, and to vest them with and delegate to them such powers as the said Governor may deem expedient. Appointment of officers.

6. It shall not be lawful for any person to transmit or convey any letter from any part of this Colony to any other part thereof, or to any part beyond the seas, by any other means than by or through the post office establishment, with the following exceptions; that is to say, Exclusive privilege of post office.

1. Letters from or to any place not being on the line of road along which the post travels: Exemptions therefrom.
2. Letters concerning goods or other property to be delivered, such letters being sent with or for the purpose of being delivered at the same time as the property they concern, without hire or reward for receiving or delivering the same:
3. Letters to be sent by any private friend in his way, journey, or travel, so as that such letters shall be delivered by such friend to the party to whom they may be directed, or by any messenger sent on purpose for or concerning the private affairs of the sender or receiver thereof; and no person shall make a collection of such letters hereby excepted for the purpose of sending them in the manner hereby authorized. And the following persons are expressly forbidden to carry a letter, or to receive or collect or deliver a letter, although they shall not receive hire or reward for the same, that is to say:

   (1.) Common carriers of passengers or goods, their drivers, servants, or agents, except letters sent by persons on any public line of road from one Special prohibition

station to another, where no post office is established between such two stations :

(2.) Owners, masters, or commanders of ships, boats, or other vessels, and their servants or agents, except letters solely concerning goods on board :

And every person transmitting, conveying, collecting, carrying, receiving, or delivering any letter contrary to the provisions of this clause shall be guilty of an offence, and liable, on conviction, to a fine not exceeding one pound for every letter in respect of which any such offence shall have been committed; and it shall be lawful to include any number of offences against this clause committed by the same person in one and the same information or complaint; and it shall be competent to any police court to take cognizance of any number of offences so included as aforesaid, and to award in respect thereof the full amount of punishment for each offence to which the offender is herein declared to be liable on conviction.

7-9. Repealed.

III.—*Newspapers, Price Currents, and Commercial Lists.*

Postage on newspapers, price currents, &c.

10. A colonial postage of one halfpenny only shall be charged on every printed newspaper, price current, or commercial list transmitted by or through the post office, addressed to any place within this Island; and a colonial postage of one penny only shall be charged on every newspaper, price current, commercial list, dispatched by post to any place beyond this Island, such rates of postage to be prepaid by stamps; and upon any newspaper, price current, or commercial list not prepaid by stamps, if received into the post office for inland delivery, and if the sender shall not be known, an additional postage of one penny shall be charged; and all newspapers, price currents, and commercial lists received from any place beyond this Island shall be delivered free of charge: Provided that nothing herein contained shall be construed to oblige any person to send any printed newspaper, price current, or commercial list through the post office, but it shall be lawful for all persons to send the same in any other manner.

Mode of sending newspapers.

11. No newspaper, price current, or commercial list shall be sent by post at the above rates, unless the following conditions shall be observed:

First. It shall be sent without a cover, or in a cover open at the sides;

Second. There shall be no word or communication printed on the paper after its publication, or upon the cover thereof, nor any writing or marks upon it, or upon the cover of it, except the name and address of the person to whom it is sent, or any other necessary direction as to its delivery or transmission, and the name and address of the sender :

Third. There shall be no other paper or thing enclosed in or with any such paper:

And any newspaper, price current, or commercial list sent by post, in respect of which the above conditions shall not be observed,

shall, together with anything enclosed in or with the same, be charged with postage at the rate which would be charged on an unpaid letter of equal weight.

12. The Postmaster General may examine and authorize to be examined any printed newspaper, price current, or commercial list sent by post, and if any other paper or writing whatsoever be enclosed or concealed in any such newspaper, price current, or commercial list, or if there shall be any communication or writing thereon, or on the cover thereof, except the name and address of the person to whom it is sent, and the name and address of the sender, or any other necessary directions as to its delivery or transmission, it shall be charged with postage at the rate of an unpaid letter of equal weight, which the person to whom the same is sent, receiving the same after notice thereof, shall be obliged to pay, or in case he refuses to receive it, the said newspaper, price current, or commercial list shall be returned to the General Post Office: Provided always, that all official gazettes, when despatched from the Government printing office, shall pass free of postage within this Colony. Examination of newspapers, &c.

IV.—*Patterns and samples of Merchandise, Book Packets, Parcels.*

13. Patterns and samples of merchandise may be sent by the post to any place within the Colony at the following charges, and on the following conditions: Patterns and samples of merchandise.

Weighing not more than 2 oz. -					-	1*d.*
„	more than 2 oz. and not exceeding			4 oz.	-	2*d.*
„	„	4 oz.	„	8 oz.	-	4*d.*
„	„	8 oz.	„	1 lb.	-	8*d.*

and so on, increasing 4*d.* for every additional ½ lb., or any less weight:

(1.) The postage shall be prepaid in full, by means of postage stamps outside the pattern or sample, or its cover:

(2.) No packet of patterns or samples shall exceed 3 lbs. in weight:

(3.) There shall be no writing or printing on the packet or its cover in addition to the address of the person for whom the packet is intended, except the address of the sender, a trade mark and numbers, the prices of the articles, or any other necessary directions as to its delivery or transmission; and any infringement of this rule shall lead to the packet being treated as a letter:

(4.) There shall be no enclosure other than the patterns or samples themselves, and any enclosure not being a pattern or sample shall be treated as a letter, charged with the full postage as an unpaid letter, together with an additional rate of a penny, and shall be forwarded separately to the address on the packet:

(5.) Patterns or samples shall be sent in covers open at the ends, so as to be easy of inspection: Provided, however,

that samples of seeds, &c. may be enclosed in boxes or bags fastened in such a manner that they may be readily opened or examined ; and any pattern or sample not so sent or inclosed shall be treated as a letter :

(6.) If a packet of patterns or samples be posted altogether unpaid, it shall be forwarded charged with double the postage which should have been prepaid, and if any portion of the postage be prepaid, such packet shall be charged with the amount of the deficiency together with the additional rate of one penny.

Book packets.

14. Book packets may be sent by the post to any place within the Colony, at the following charges, and on the following conditions :

Weighing not more than 2 oz.					1*d.*
„	more than 2 oz. and not exceeding			4 oz.	2*d.*
„	„	4 oz.	„	8 oz.	4*d.*
„	„	8 oz.	„	1 lb.	8*d.*

and so on, increasing 4*d.* for every additional ½ lb., or any less weight.

1. The postage shall be prepaid in full by means of postage stamps affixed outside the packet or its cover :
2. Every packet shall be sent either without a cover, or in a cover open at the ends :
3. A book packet, whatever may be the postage paid thereon, shall not contain any letter, closed or open, or any enclosure sealed or otherwise closed against inspection ; nor shall there be any letter, nor any communication of the nature of a letter, written or printed, in any such packet, or on its cover. Entries, however, merely stating who sends the book or other publication, or to whom it is given, shall not be regarded as a letter :
4. No book packet will be received if it exceeds three pounds in weight :
5. No book packet shall exceed two feet in length or one foot in width or depth ; and if any packet exceeding such dimensions be presented at a post office it will not be received :
6. Any book packet which is not open at the ends, or has any letter, or any communication of the nature of a letter, written or printed in it or upon its cover, shall be charged with the unpaid or double letter postage. Printed proof sheets, however, with ordinary corrections in writing, may be forwarded as or in a book packet at the book packet rate :
7. If a book packet be not sufficiently prepaid with stamps, but nevertheless bear a stamp of the value of one penny or more, it shall be forwarded, charged with a book postage of double the amount of the difference between the value of the stamps affixed thereto and the postage to which the same would be liable if duly and properly stamped when

posted, but any packet which bears no postage stamp shall be charged with double the book postage:

8. If a book packet be found to contain any letter written or printed, whether closed or open, or any enclosure sealed or otherwise closed against inspection, or any other unauthorized enclosure, the letter or enclosure shall be taken out and forwarded to the address on the packet, charged with the full postage as an unpaid letter, together with an additional rate; and the remainder of the packet, if duly prepaid with stamps, shall be forwarded to its address:

9. In every case in which the postage chargeable under these regulations shall be greater than the letter rate such letter rate shall be substituted:

10. It shall be the duty of all postmasters and postholders, whenever they have grounds for suspecting an infringement of any of the above conditions, to open and examine book packets posted at or passing through their offices:

11. The main business of the post office being the transmission of letters, the forwarding of books, patterns, or samples, parcels, and newspapers (which no one is compelled to send through the post office), shall be deemed to be though an important only a secondary object, for which no arrangement can be made that should interfere with the prompt and regular conveyance and delivery of letters.

15, 16. Repealed.

V.—*Re-directed Letters, &c.*

Re-directed letters, books, &c.

17. Subject to the following exceptions and conditions, every re-directed letter or other postal packet shall be liable to an additional postage at the prepaid rate, unless the re-direction be made by an officer of the Post Office (who shall have been informed in writing of the change of address) and unless the original and the second address shall be within the same district limits of free delivery:

(1.) No additional postage shall be levied on official letters:

(2.) Upon a book also, or pattern or sample parcel thus re-directed, an additional postage of one penny per two ozs. and under shall be levied; or if the weight exceed two ozs. but do not exceed four ozs., twopence shall be levied; and so on as provided for in clauses 13 and 14 of this Ordinance:

(3.) Registered letters, when re-directed, shall be liable to the same additional charge as ordinary letters, and if re-posted shall be charged with a second registration fee:

(4.) Letters which have once been posted addressed to commissioned officers in the army, navy, or ordnance, or to non-commissioned officers, private soldiers, or seamen employed on actual service in any of Her Majesty's colonies, or on any foreign station, and who, before receiving such letters, may have started on their return home, or to another station, may be re-directed to such

officers, private soldiers, or seamen, when these have removed upon service, and shall be delivered to them without any charge for re-direction; and letters similarly re-directed to such persons from one part of Ceylon to another, or from Ceylon to a place abroad, shall have the same privilege; but letters for a commissioned officer re-directed from one part of Ceylon to another, or (if the same shall have been posted in Ceylon) re-directed to a place abroad, shall be chargeable with re-direction postage at the usual rate.

Newspapers re-directed.

18. In case any person to whom a printed newspaper, price current, or commercial list shall be directed shall have left the place (temporarily or otherwise) to which it shall be directed before the delivery thereof at that place, such newspaper, price current, or commercial list may (provided it shall not have been opened) be re-directed and forwarded by post to such person at any other place within the Colony free of charge; but if the newspaper, price current, or commercial list shall have been opened, it shall be charged with the same rate as it would be liable to were it then posted for the first time.

VI.—*Official Letters, &c.*

19, 20. Repealed.

VII.—*Registered Letters, &c.*

Registered letters.

21. Any person presenting a letter packet, parcel, or other post packet properly prepaid shall be entitled to require that it shall be registered at the receiving post office, and that a receipt shall be granted for such registered letter packet, parcel, or packet on the payment of sixpence in addition to all other postage on the said letter, parcel, or packet; but letters, packets, or parcels, &c., on which the said sixpence as a registration fee has not been paid will not be registered, nor will any receipt be granted for any letter, paper, magazine, packet, parcel, or other thing, unless the said fee of sixpence is paid: Provided that, as respects inland letters, it shall be lawful for the Governor, with the advice and consent of the Executive Council, to fix such lower sum than sixpence as the registration fee as to him shall appear expedient.

Registered letters not expressly handed to clerk subject to double ordinary fee.

22. Any letter, packet, parcel, or other article marked registered, or evidently intended for registration, shall, if properly prepaid in stamps, and if found in the receiving box, or on some part of the premises, and not expressly handed to the clerk, be liable to a registration fee of one shilling, or double the ordinary fee; and any registered letter, packet, or parcel, if re-posted as an ordinary letter, packet, or parcel, with the word registered unerased, or erased in pencil only, shall be liable to a registration fee of one shilling.

Letters, &c. containing coin.

23. All letters, packets, parcels, or other articles containing coin, money, jewellery, or other articles of value, must be registered, the postage and registration fee being prepaid; and all

such letters, packets, parcels, or articles, although posted without registration, shall be treated as registered letters, and charged on delivery with a double registration fee of one shilling in addition to the ordinary postage.

VIII.—*Ship Letters.*

24. The master or other person in command of every vessel sailing from any port of this Island shall receive on board and convey all mails and bags of letters which shall be delivered, or caused to be delivered, to him by the Postmaster General, or any of his deputies or assistants; and every such master or other person acting contrary to the provisions of this clause shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding twenty pounds.

Masters of ships to receive mails.

25. On the arrival of any vessel off the coast of Ceylon, the master or person in chief command thereof shall cause all letters on board to be collected, and at the first port at which any such vessel shall touch or arrive, or with which it shall communicate otherwise than by signal, shall send the same on shore by his own boat or by the pilot boat, or any other safe and convenient opportunity, in order that the same may be delivered at the first regular post office which can be communicated with; and such master or persons at the regular port or place at which the vessel shall report shall sign a declaration in the presence of the person authorised by the Postmaster General at such port or place, who shall also sign the same; and the declaration shall be in the form or to the effect following; (that is to say,)

Master to land letters at first port,

and make declaration.

" I, *A.B.*, commander of the (*state the name of the ship or* " *vessel*), arrived from (*state the place*), do, as required by law, " declare that I have, to the best of my knowledge and belief, " delivered, or caused to be delivered, to the post office every " letter, bag, package, or parcel of letters that were on board " the (*state the name*)."

And until such declaration shall be made and produced, no collector or principal officer of the customs shall permit such vessel to report, or to break bulk, or to make any entry in any port; and in case such declaration shall be false the person making the same shall be guilty of an offence, and be liable on conviction to a fine of ten pounds.

26. It shall be lawful for any officer of customs at any port or place in this Island who, in the due execution of his duty as a revenue officer, shall discover any letters or packets on board any vessel in any port or place whatever, contrary to the provisions of this Ordinance, to seize and take all such letters and packets, and to forward the same to the Postmaster General or his deputy at such port or place.

Seizure of letters unlawfully on board.

IX.—*Letters from Soldiers or Seamen.*

27. Letters for or from non-commissioned officers, band masters, army schoolmasters, not being superintending schoolmasters or

Letters from soldiers or seamen.

schoolmasters of the first class, private soldiers, or seamen belonging to Her Majesty's ships, whether serving on sea or land, or at home or abroad, shall be liable to a postage rate of one penny only: Provided that if such letters have to pass through a foreign country, they shall be subject, in addition to the foreign postage, to the following conditions:

(1.) That such letter shall not weigh more than half an ounce. If any such letter weigh more than half an ounce the postage charged shall be at the same rate as that upon ordinary letters:

(2.) That the person claiming the privilege shall at the time be actually employed in the service of Her Majesty, and shall be entitled as of the rank or designation above specified:

(3.) That the name of the soldier or seaman, with his rank, class, or description, shall appear in the direction, and that the officer having the command shall sign his name, specifying the ship, or regiment, corps, or detachment, to which the soldier or seaman belongs, the name of the ship or regiment being entered in full:

(4.) That any such letter, if sent by a private ship, that is to say, by any sailing vessel or steamer not subsidized on account of the mail service to and from this Colony, shall be charged with the gratuity of one penny to the captain, payable in advance or recoverable on delivery, at the option of the sender:

(5.) That the contents of any such letter shall entirely relate to the private concerns of the soldier or seaman.

X.—*Letters, &c., between India and Ceylon.*

Postage on letters between India and Ceylon.

28. Whereas a postal convention has been entered into between the Government of India and Ceylon, under which letters for India prepaid in Ceylon, and also those for Ceylon prepaid in India, are to be carried free of all further charge to their respective destinations; and it is necessary, for the more convenient carrying into effect the said convention, that the repayment of letters intended to be sent by land route from Ceylon to India should be compulsory; it is therefore enacted,

(1.) Any letter posted in Ceylon, for transmission by the land route to any place in India, shall be returned (without charge) to the person sending the same, if such letter shall not be prepaid at the rates herein-after mentioned:

(2.) If the person sending any letter so to be returned as aforesaid is not known, it shall be lawful for the Postmaster General, or one of his deputies or assistants, to open and examine any such letter, and deal with it according to the circumstances of the case:

(3.) The charges to be levied and prepaid on letters posted in Ceylon for transmission by the land route to any place in India, shall be as follows; that is to say,

	s.	d.
On every letter not exceeding one half ounce -	0	3
On every letter exceeding one half ounce, and not exceeding one ounce - - - -	0	6
On every letter exceeding one ounce, and not exceeding two ounces - - - -	1	0

Every letter weighing more than two ounces shall be charged at the rate of sixpence for each ounce that the same may weigh, and a further sixpence for any part of an ounce that the same may weigh over and above any exact number of ounces.

29. Repealed.

XI.—*Dangerous or offensive Substances.*

30. No person shall knowingly post, or send, or tender, or deliver in order to be sent by the post, any letter, parcel, or packet containing any explosive or other dangerous material or substance, or any offensive substance, or glass, or glass bottles containing liquid, or any article which, by pressure or otherwise, may injure the contents of the mail or the person of any officer of the Post Office; and any person contravening this prohibition shall forfeit for every such offence a sum not exceeding twenty pounds. The Governor shall be empowered, by proclamation, from time to time to specify what substances, other than those above defined, shall be considered dangerous and offensive.

No dangerous substance to be sent by post.

31. No officer of the Post Office shall, on any pretence whatever, forward or cause to be forwarded any letter, parcel, or packet of the nature of those or of any of them referred to in the foregoing clause, and should any such letter, parcel, or packet have been received into the Post Office, the Postmaster General, or any of his deputies or assistants, is hereby empowered to detain it, and to otherwise deal with it according to the circumstances of the case.

Officers of post authorized to detain letter containing substance above referred to.

XII.—*Postage Stamps.*

32. All letters, newspapers, packets, parcels, and other articles having a stamp or stamps affixed thereto, (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters, newspapers, packets, parcels, or other articles are liable under this Ordinance,) shall, provided the stamp or stamps shall not have been used before, be considered as prepaid; but if any letter, newspaper, packet, or other parcel to be transmitted through the post shall have affixed thereto a postage stamp or stamps which shall not be of the same description as the postage stamps current in this Colony, or shall have any other stamp than a Ceylon

Postage stamps.

postage stamp affixed, such letter, newspaper, packet, parcel, or other article shall be deemed to be unpaid, and shall be treated accordingly: Provided always, that should any such letter, newspaper, packet, parcel, or other article be partially prepaid in Ceylon postage stamps, it shall be forwarded chargeable only with the difference of postage short paid, as provided for in the case of insufficiently paid correspondence.

Letters with insufficient stamps, how charged.

33. If any letter, packet, or parcel be posted, having affixed thereto a postage stamp or stamps the local value of which shall be less than the rate of postage to which the same would be liable if duly and properly stamped when posted, there shall be charged thereon a postage of double the amount of the difference between the value of the stamps affixed thereto and the postage to which the same would be liable as aforesaid, if duly and properly stamped when posted: Provided, however, that in the case of re-directed letters, the unpaid additional postage shall not be doubled, but shall be the same as if such postage were prepaid.

Use of stamps already mutilated or defaced an offence.

34. Any person using for postal purposes a stamp which shall have been already used, mutilated, or defaced, shall, on conviction, be liable to a fine not exceeding one pound.

How to be provided.

35. The Governor shall cause postage stamps to be provided, denoting such values as he may direct, and shall give such orders and make such regulations relative thereto as may be deemed expedient.

Separate accounts to be kept of the stamp duties under this Ordinance.

36. The Commissioner of Stamps shall cause a separate account to be kept of the stamp duties arising under this Ordinance, and shall pay the sums of money arising from the said stamp duties into the public treasury, in like manner as other sums of money received by him on account of stamp duties.

Postage stamps to be deemed stamp duties.

37. The rates or duties which shall be expressed or denoted by any postage stamp shall be denominated and deemed stamp duties, and shall be under the care and management of the Commissioner of Stamps for the time being; and all the powers, provisions, clauses, regulations, directions, fines, forfeitures, pains, and penalties contained in or imposed by any Ordinance now in force or to be herein-after enacted relating to stamp duties, shall (so far as the same may be applicable, and may be consistent with the provisions of this Ordinance,) in all cases not hereby expressly provided for, be of full force and effect with respect to the stamps to be provided under and by virtue of this Ordinance, and to the paper on which the same shall be impressed, or to which the same shall be affixed, and shall be observed, applied, enforced, and put in execution for the raising, levying, collecting, and securing of the rates or duties denoted thereby, and for preventing, detecting, and punishing all frauds, forgeries, or other offences relating thereto, as fully and effectually, to all intents and purposes, as if such powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties had been herein repeated and specially enacted with reference to the said last-mentioned stamps and rates or duties respectively: Provided, however, that any person purchasing of the Commissioner of Stamps, at one time, postage stamps to the value of five pounds or upwards shall be

Proviso.

allowed a discount of five per cent. on the amount of such purchase; and that any person shall be allowed to sell postage stamps issued under the authority of this Ordinance.

Penalties for forging stamps, dies, or plates.

38. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any die, plate, or other instrument used for the purpose of making postage stamps; or if any person shall forge or imitate, or cause to be forged or imitated, any postage stamps; or if any person shall knowingly and without lawful excuse (the proof of which excuse shall lie on the person accused) have in his possession any false, forged, or counterfeited die, plate, or other instrument resembling, or intended to resemble, either wholly or in part, any die, plate, or instrument used for the purpose aforesaid; or if any person shall stamp or make any paper or other substance with any such false, forged, or counterfeited die, plate, or instrument as aforesaid; or if any person shall knowingly use, utter, sell, or expose for sale, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the person accused) have in his possession any paper or other substance having thereon the impression of any such false, forged, or counterfeit die, plate, or other instrument as aforesaid, or having thereon any counterfeit stamp resembling, or intended to resemble, or to be mistaken for a postage stamp, such person so offending, and every person knowingly aiding, abetting, or assisting such person in committing any such offence, shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment, with or without hard labour, for a term not exceeding seven years, and shall also, in the discretion of the court, be liable to such fine as the court may think fit to impose.

Penalties for evading postage stamp duties.

39. If any person shall fraudulently remove any postage stamp from any letter or other thing to which such stamp shall have been affixed; or if any person shall knowingly use any such stamp so fraudulently removed; or if any person shall fraudulently erase or remove from any such stamp, or in any way alter. any writing or other matter or thing thereon written or impressed, every person so offending shall for every such offence forfeit a sum not exceeding twenty pounds.

XIII.—*Admiralty Packages.*

Admiralty packages.

40. All Admiralty packages, properly labelled to that effect, shall be delivered free of local postage at the port of call of any mail steamers carrying such packages; but shall be chargeable with local postage at parcel rates if forwarded from such port inland, at the request of the party or parties to whom the same shall be addressed.

XIV.—*General Provisions.*

Money, &c. sent by post to be at risk of the sender.

41. Money, jewels, ornaments, or other valuable articles sent by post shall be received and forwarded at the entire risk of the persons sending the same, and the letter or packet containing the same shall be charged with the letter postage according to the weight thereof.

42–44. Repealed.

Packets exceeding 3 lbs. in weight cannot be forwarded by runners.

45. No packets of any description can be forwarded by runners, that is to say, on Tappal lines, if such packets singly exceed three pounds weight, with the exception of Admiralty packets to or from naval stations, and of records of court suits, which cannot readily be divided so as to reduce their weight to the ordinary maximum standard of three pounds.

Officers of Post Office exempted from serving as jurors.

46. No Postmaster General, nor any person employed by or under the Post Office, shall be compelled to serve on any jury or inquest, any Ordinance to the contrary thereof notwithstanding.

Theft of letters or packet.

47. Any person who, being employed in any capacity in, by, or under the Post Office establishment, shall secrete, steal, destroy, mutilate, or break open any letter, packet, or parcel which shall have been put into the post for transmission, whether anything valuable be therein contained or not, or who being so employed shall steal or take out of any such letter, packet, or parcel, any draft, promissory note, or any other contents whatsoever, or who shall not duly account for any money received by him on account of postage, shall be guilty of an offence, and liable, on conviction, to transportation or imprisonment at hard labour for any period not exceeding seven years.

Neglect of duty by Post Office officer.

48. Every person employed to convey or deliver a post letter bag, or a post letter, who shall be guilty, whilst so employed, of any act of drunkenness, carelessness, or other misconduct, whereby the safety of a post letter bag, or a post letter, may be endangered, or who shall collect, or receive, or convey, or deliver a post letter, otherwise than in the ordinary course of the post, or who shall not use proper care and diligence safely to convey a post letter bag, or a post letter, according to the regulations of the Post Office for the time being, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds, or to imprisonment with or without hard labour not exceeding three months, or to both.

Opening or delaying letters.

49. Every person employed by or under the Post Office who shall, contrary to his duty, open, or procure, or suffer to be opened, a post letter, or who shall wilfully detain or delay, or procure or suffer to be detained or delayed, a post letter, shall be guilty of an offence, and, on conviction thereof, shall be liable to any fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to both: Provided always, that nothing herein contained shall extend to the detaining, or delaying, or opening by the Postmaster General of a post letter returned for want of a true direction, or of a post letter returned by reason that the person to whom the same shall be directed is dead or cannot be found, or shall have refused the post letter, or shall have refused or neglected to pay the postage thereof.

Revealing contents of letters so opened made penal.

50. Any person revealing, disclosing, or in any way making known the contents of any post letter opened and examined under the authority of this Ordinance, except so far as it may be necessary for the purpose of returning the same, shall be guilty of an offence, and on conviction thereof shall be liable to any fine not

exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months.

51. Every person who shall fraudulently retain, or shall wilfully secrete, or keep, or detain, or, being required to deliver up by an officer of the Post Office, shall neglect or refuse to deliver up a post letter which ought to have been delivered up to any other person, or a post letter bag or post letter which shall be sent, whether the same shall have been found by the person secreting, keeping, or detaining, or neglecting or refusing to deliver up the same, or by any other person, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months, or to both.

Fraudulent or wilful detention of letters.

52. It shall not be lawful for any person whomsoever to detain a post office messenger whilst carrying the mails, nor on any pretence to open a packet in transit from one post office to another within this Colony, and any person so doing, whether he take any letter from such packet or not, shall be guilty of an offence, and be liable, on conviction thereof, to any fine not exceeding five pounds.

Detention of post office messenger, &c.

53. In every case where an offence shall be committed in respect of a post letter bag or post letter, or of any money, valuable security, or other article sent by post, the property of the post letter bag or of the post letter, money, valuable security, or other article sent by the post, shall be laid, when necessary to be laid at all, in Her Majesty, and it shall not be necessary in any information or complaint to allege or to prove upon the trial, or otherwise, that the post letter bag, or any such post letter or valuable security, was of any value, and in any information or complaint to be preferred against any person employed under the post office, for any offence committed against this Ordinance, it shall be lawful to state and allege that such offender was employed under the post office at the time of the committing of such offence, without stating further the nature or particulars of his employment.

Property to be laid in Her Majesty.

54. Whenever any person shall be guilty of an offence against this Ordinance the punishment of which shall be a fine, it shall be lawful for the Postmaster General to accept payment on behalf of Her Majesty from such offender of the highest amount of fine to which such offender would have been liable on conviction, and no person having made such payment shall thereafter be triable for the same offence.

When offender may pay amount of fine into court.

55. All duties of postage payable by virtue of this Ordinance shall be deemed and taken to be debts due to Her Majesty, and may be sued and recovered in such and the same manner and form as any other debt of the like amount due to Her Majesty, and it shall be lawful for the Postmaster General or any of his deputies, assistants, or for any person authorized in that behalf by writing under the hand of the Postmaster General, or any of his deputies or assistants, to appear and represent Her Majesty in any suit or other proceeding which shall be instituted in any court of requests

Postage duties debts to Her Majesty.

for the recovery of any debt which shall become due under the provisions of this Ordinance.

Informer's share of fine.

56. It shall be lawful for the court before which an offender is convicted to direct any share, not exceeding one half of every fine imposed under this Ordinance, and actually recovered, to be awarded to the informer.

Deputy Postmaster-General may exercise same powers and privileges as Postmaster-General.

57. All powers and privileges vested in, and all duties required to be performed by, the Postmaster General, under the provisions of this Ordinance, shall and may be exercised and performed by any Deputy Postmaster General or assistant within such limits as he shall be appointed to act by or under the authority of the Governor.

Governor and Executive Council may make rules to regulate hours for posting letters, &c.

58. It shall be lawful for the Governor from time to time, with the advice of the Executive Council, to make such rules as shall appear expedient for the transmission of all official letters, packets, and parcels, and for the sale in the several post offices of postage stamps, and for regulating the hours during which the several post offices in this Colony shall be kept open for the reception of letters, newspapers, packets, and parcels; and to direct that any or all of such post offices shall be open for the reception thereof, out of such regular hours, upon payment for every such letter, newspaper, packet, or parcel so posted out of the regular hours, of such extra charge as to the said Governor, with the advice aforesaid, shall from time to time appear expedient.

Governor to fix postage for expresses.

59. It shall be lawful for the Postmaster General, whenever any letters, packets, or parcels shall be forwarded by express from one place to another within this Colony, to charge such extra rates for the conveyance of such letters, packets, or parcels by express, as may be approved of by the Governor with the advice of the Executive Council; and letters, packets, or parcels shall be deemed to have been forwarded by express whenever any messenger, coach, vessel, or other conveyance shall be specially employed to carry the same for the particular occasion.

Post letters and delivery thereof.

60. For the purposes of this Ordinance a letter, packet, or parcel shall be deemed a post letter, packet, or parcel from the time of its being delivered to a post office to the time of its being delivered to the person to whom it was addressed, and the delivery to a letter carrier or other person authorized to receive letters, packets, or parcels for the post, shall be a delivery to the post office; and a delivery at the house or office of the person to whom the letter, packet, or parcel is addressed, or to him, or to his servant or agent, or other person considered to be authorized to receive the letter, packet, or parcel, according to the usual manner of delivering that person's letters, packets, or parcels, shall be a delivery to the person addressed.

30th December 1865.

166.

No. 28 OF 1865.

An Ordinance to give effect to certain Rules relating to Proceedings of the Supreme Court in its Criminal Jurisdiction.

WHEREAS by the Ordinance No. 8 of 1846, entitled "For rendering the operation of rules of court contingent on their enactment by the Legislature," it is provided, that whenever any rule of court, framed by the Judges of the Supreme Court, shall have been transmitted to the Governor in the manner directed by the said Ordinance, such rule shall be laid by the said Governor, in the form of an Ordinance, before the Legislative Council, to be considered and dealt with by the said council in such and the same manner as any other Ordinance; and that no rule framed by the said Judges shall operate or take effect until the same shall have been duly enacted: And whereas the Judges have transmitted to the Governor, in the manner directed by the said Ordinance, the rules relating to proceedings of the Supreme Court in its criminal jurisdiction: It is therefore enacted as follows: **Preamble.**

1. The rules in the schedule to this Ordinance annexed, relating to the proceedings of the Supreme Court in its criminal jurisdiction, are hereby confirmed, and shall come into operation and take effect at the date of the passing hereof. **Rules relating to proceedings of the Supreme Court in its criminal jurisdiction confirmed.**

SCHEDULE.

It is ordered that the rules of the 1st October 1833 as to the proceedings of the Supreme Court in its criminal jurisdiction be repealed, and that henceforth the following rules be observed:

1. As soon as conveniently may be after the time for holding any criminal sessions of the Supreme Court at any place and time shall have been fixed by proclamation, and at a convenient time before the dates fixed by law for the commencement of sessions at Colombo or Kandy, the mandates and precepts will be issued to the respective Fiscals for summoning jurors, and for the other purposes necessary for the due exercise of this branch of the jurisdiction of the court. **Of issuing mandates.**

2. At the opening of every sessions the Fiscal will in the first place be called upon to return the several mandates to him directed. **Opening the sessions.**

3. The indictments, or informations, or libels of accusation shall be prepared by the Queen's Advocate or Deputy Queen's Advocate, or by the direction of either, and shall be allowed and signed by one of these officers, and all crimes and offences cognizable before the Supreme Court shall, as prescribed by the charter, be prosecuted in the said court in the name of the Queen's Advocate, and by him or by some Deputy Queen's Advocate. **Preparation of indictment and prosecution of offence.**

Order of business.

4. The cases which stand for trial shall be proceeded with in such order as the judge shall consider most convenient with reference to the public interest, as well as the convenience of the parties.

Of calling on of cases.

5. When any case is called on, the accused shall be called upon to take his trial. If he appears, and no adequate cause be assigned by either side for postponing the trial, and if the Queen's Advocate or Deputy Queen's Advocate do not state that the charge is withdrawn, it shall proceed in manner herein-after directed.

Of calling on accused to plead.

6. The indictment shall be read aloud in English, and if the accused does not understand English, it shall be interpreted to him in a language which he understands. He shall then be asked by the officer of the court (the question to be interpreted if necessary) whether he is guilty or not guilty.

Form of proceeding if the accused demurs to the indictment.

7. The accused may, instead of pleading, demur to the indictment as wholly insufficient in law. Such demurrer shall be argued, and the judge shall give judgment thereon either forthwith or at some other time of the sessions. No objections of mere form shall be allowed to prevail on such demurrer, and the judge shall then and there have full power to amend all clerical or technical errors and defects in the indictment. If it appear to the judge that the indictment is substantially bad, the judge shall have power either to give judgment for the accused, and to order the accused to be discharged, or to quash the indictment, and direct another to be forthwith prepared. If the judge shall be of opinion that the indictment is substantially good, he shall give judgment for the Crown on the demurrer accordingly, and the accused shall in that case be again called on to plead.

Plea of guilty.

8. If the accused pleads guilty such plea shall be recorded, and when such plea has been recorded, the judge shall pass sentence either forthwith or at some subsequent period of the sessions, at his discretion.

Of special pleas, and apparent insanity of accused at time of trial.

9. If the accused plead a special plea, such as *auterfois acquit*, or if the judge shall see cause to suppose that the prisoner when called on to plead, or at any period of the proceedings in court, is insane, the legal course thereon shall be followed under the directions of the judge.

Plea of not guilty, refusal to plead.

10. If the accused plead "not guilty" the plea shall be recorded, and the trial proceed as herein-after directed; and if the accused shall refuse to plead, or shall give a mere vague answer, the judge may order the plea of "not guilty" to be entered, which shall have the same effect as if pleaded by the accused.

Calling the jury to try the issues of guilty or not guilty.

11. When the plea or pleas of "not guilty" has or have been entered the jury is to be called to try the case or cases. The jury shall be called by drawing thirteen names indifferently from a box, and shall be chosen from such class or classes as the Queen's Advocate or Deputy Queen's Advocate and the accused may agree on, or if they should not so agree, as the judge may direct.

Of informing the accused of

12. When thirteen jurors have appeared the accused are to be informed by the officer of the court, or if necessary by the inter-

preter, of their right of challenge in these words, or words to this effect: the right of challenge.

"The good and lawful men whose names you shall hear called "are the jurors who are to decide between our Sovereign Lady "the Queen and you upon your trial (*or* upon your respective "trials); if you object to them, or any of them, your time is as "they stand up to be sworn or affirmed, and before they are "sworn or affirmed, and you shall be heard."

13. The officer of the court shall thereupon call upon such jurors by name to stand up to be sworn or affirmed; and the accused's right of challenge and the Crown's right of challenge shall be exercised as each juror is about to be sworn or affirmed, and not otherwise. Right of challenge how exercised.

14. When jurors are set aside or withdrawn other names shall forthwith be drawn in their place, and if the number of the class from which the jury is drawn is reduced below the number of thirteen, others shall be forthwith summoned or called from the bystanders. Of supplementary jurors.

15. The thirteen jurors drawn and chosen shall severally take the following oath or affirmation, to be administered according to the religion which each shall respectively profess: Jurors how sworn or affirmed.

"I solemnly and sincerely swear (*or* affirm) that I will well and "truly try the prisoner (*or* prisoners) according to the evidence. "I will not reveal my own vote or opinion, or that of any of "my fellow jurors, unless required to do so by law."

16. The accused in each case shall be given in charge to the jury by the officer of the court briefly stating to the jury in each case the nature of the charge and the plea of the accused, as follows, or in words to like effect: Of giving in charge to the jury.

"Gentlemen of the jury, the prisoner *A.B.* is indicted for "manslaughter (*or* for aggravated assault, *or* for receiving "stolen property knowing it to have been stolen, *or* for cattle "stealing, *or as the case may be*). To this indictment he has "pleaded not guilty; your duty, therefore, is to listen to the "evidence, and to find by the verdict of seven or more of you "whether he is guilty or not guilty."

17. The Queen's Advocate or Deputy Queen's Advocate will then, in his discretion, explain and open the case against the accused. He will then call the witnesses in support of the charge, who will be examined, cross-examined, and re-examined according to law. At the close of the case for the Crown, the accused, or his advocate or proctor, may address the jury and call witnesses for the defence. Evidence in defence gives the prosecutor a right of reply. The judge will, in his discretion, sum up the case to the jury, who will, according to the opinion of them, or of a majority of them, find their verdict of guilty or not guilty. If they wish to retire to consider of their verdict, they shall be conducted to a room kept for that purpose, where they shall remain, without having communication with any other persons, unless by express Of opening the case, of calling witnesses for the defence, and reply. Of the verdict.

permission of the court, till the majority of them shall have agreed on a verdict. The verdict shall in all cases be pronounced in open court, and in the presence of the prisoner, by the foreman of the jury, and in the hearing of all the rest of the jury. The officer of the court will make an entry of the verdict, and will then say to the jury words following, or to the like effect :

" Gentlemen of the jury, attend while your foreman signs your " verdict. The finding of you, or of the greater part of you, is " that the prisoner *A.B.* is 'guilty' (*or* 'not guilty.')"

The foreman will sign the verdict so entered, and the verdict, when so entered and signed, but not before, will be final.

At the proceedings if a juror die or fall ill.

19. If during any trial any juror shall die, or be taken seriously ill, or be otherwise incapacitated from performing his duties as a juror, it shall be lawful for the judge to issue his order to the Fiscal to summon some one of the bystanders or neighbours to serve in his place, who shall be qualified and liable to serve as a juror, and to whose so serving no valid objection, either by way of challenge or otherwise, shall be made; and the said juror and the other jurors originally empannelled shall thereupon be sworn, and the evidence of such witnesses as may have been already examined shall then be read over to the jury from the judge's notes, and the trial shall proceed as if no such interruption had occurred.

Of motion in arrest of judgment.

20. When any prisoner is before the court for the purpose of receiving sentence, he shall be at liberty to move in arrest of judgment for any error in matter of law, but it shall not be necessary to call upon him to do so; and no judgment shall be arrested or set aside for matter of form, or for any error or defect of pleading or of proceeding, or otherwise whereby the substantial rights of the prisoner have not been prejudiced, nor for any error or defect in the indictment, unless such error or defect would have been fatal, and incurable by amendment if objection to it had been taken on demurrer.

Of sentence.

21. Sentence will be pronounced in open court by the judge who tried the case, and will be inserted in the calendar and signed by the judge, which insertion and signature shall be the Fiscal's warrant for carrying the sentence into execution: Provided that in every case where any one shall have been adjudged to die, and the execution of such sentence shall have been respited, as required by the 44th clause of the charter, for the purpose of a report of the case being laid before the Governor and considered by him, the Fiscal shall not execute such capital sentence, notwithstanding that the period named in such respite may have elapsed and no further respite have been received, unless the Fiscal shall have been informed according to the Government Minute of 6th July 1865, that the case has been reported to the Governor by the judge, and the Governor considers the case one in which the law must have its course.

Of binding over to receive sentence when called on.

22. In cases of all offences such as assault, or libel, or nuisance, or the like, and generally in all cases where the offence whereof the accused has been convicted by pleading guilty or

by verdict of guilty is not from its nature or circumstances of a heinous or aggravated character, the judge, in his discretion, and if neither party asks for immediate judgment, instead of passing sentence on such convicted person, bind him over to appear to receive sentence, when called on, and may discharge him subject to such obligation, and the judge may also in his discretion bind such person over to keep the peace, or to be of good behavour, or both, and the judge may also, in his discretion, order and direct the convicted person who is so discharged to pay expenses, and to make compensation to injured parties, and the like; and in the event of any person so discharged on recognizance as aforesaid breaking the peace, or acting contrary to his obligations to be of good behaviour, or neglecting to obey such orders and directions as aforesaid, or otherwise grossly misconducting himself in any matter connected with or arising out of the old case against him, it shall be lawful for the Queen's Advocate or Deputy Queen's Advocate to call on him by notice in writing to appear at any sessions of the Supreme Court at the place where he was convicted or at Colombo, and receive judgment; and the Supreme Court or any judge thereof shall, at such sessions or at Colombo, have full power to inquire summarily into the matter either by receiving affidavits or by hearing witnesses, and shall have full power, in their or his discretion, to pass such sentence for the offence whereof the said person was convicted as might have been passed by the judge before whom the person pleaded "guilty," or was found "guilty," and such judgment shall be recorded and entered in the calendar or in the minutes of the court, and signed by the judge or one of the judges passing the sentence, and such calendar or any exemplification of such signed minute as aforesaid shall be sufficient warrant to all Fiscals and other officers for carrying such sentence into effect; and in the event of any person so noticed to appear and receive sentence as aforesaid not appearing in pursuance of such notice, it shall be lawful for the Supreme Court, or any judge thereof, besides estreating the recognizance, to direct the issuing of a bench warrant for the apprehension and detention in custody of such person until such person can be brought up for judgment before the Supreme Court, or some judge thereof; and the Supreme Court, or any judge thereof, on such person being so brought up, shall have full power to inquire and pass sentence as aforesaid.

Of points of law reserved.

23. When the judge shall have (as directed by the 47th clause of the charter, and by the 11th clause of Ordinance No. 18 of 1865, or in any Ordinance to be in that behalf herein-after enacted,) reserved for the decision of the judges of the Supreme Court any question of law arising on any criminal trial on which the decision of the judge at the trial shall have been adverse to the prisoner, such question so reserved shall be heard and determined by the judges collectively at Colombo, as soon as conveniently may be on some day for hearing Crown cases reserved, whereof due notice shall have been given in the "Gazette;" it shall not be necessary that such hearing shall be in the presence of the

prisoner, but any advocate who may appear for the prisoner at such hearing shall be entitled to be heard on the question reserved, and if no advocate appear for the prisoner, the court shall and may, in its discretion, assign counsel to argue in behalf of any prisoner in such question so reserved.

30th December 1865.

167.

No. 29 of 1865.

An Ordinance to amend the Ordinance No. 14 of 1840.

Preamble.

Whereas certain articles of produce have heretofore been considered liable to tax under the Ordinance No. 14 of 1840, and under the law, custom, and usage prior thereto, but doubts have been raised as to whether they fall under the denomination of dry grain, and it is expedient to remove those doubts : It is therefore declared and enacted as follows :

Tax shall continue to be paid upon paddy, dry grain, and other produce.

1. Paddy, dry grain, and other produce, upon which tax has heretofore been levied under section 1 of the Ordinance No. 14 of 1840, entitled "An Ordinance for securing the due collection of the duties or tax upon paddy and dry grain," or under the law, custom, and usage prior thereto, have been, are now, and shall continue to be subject to such tax.

2. And whereas it is expedient to indemnify all official and other persons who, acting under the authority of the said Ordinance, or the law, customs, and usage prior and subsequent thereto, have heretofore levied tax on certain produce regarding the same as coming under the denomination of dry grain, it is further declared and enacted that all such official and other persons shall be and are hereby indemnified and discharged from all actions, suits, prosecutions, and penalties whatsoever for or on account or in respect of all or any act, matter, or thing done heretofore, ordered, or directed by them in levying such tax.

30th December 1865.

168.

No. 1 of 1866.

An Ordinance to naturalize Naylor Dunbar Schultze.

13th October 1866.

169.

No. 3 OF 1866.

An Ordinance to enlarge the operation of the Ordinance No. 10 of 1844.

WHEREAS the operation of certain clauses of the Ordinance No. 10 of 1844, entitled "An Ordinance to amend the law relative to the distillation and sale of arrack, rum, and toddy within these Settlements," has been heretofore restricted to certain districts only, and it is now expedient to remove such restriction: It is enacted as follows: Preamble.

1. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to be for that purpose published in the "Government Gazette," to bring the sixth, seventh, eighth, and tenth clauses of the said Ordinance into force in the districts herein-after specified, or any of them, anything in the 15th clause of the said Ordinance to the contrary notwithstanding: Governor empowered to proclaim clauses 6, 7, 8, and 10 in the excepted districts.

Pantura, Raygam Corle, Pasdoon Corle, Wallavitty Corle, and Caltura Division, within the Western Province.

Bentota, Wallavitty Corle, Amblangodde, Welleboda Pattu, Gangeboda Pattu, and Akmimene, of the Galle district; Belligam Corle, and Tottamuné, Four Gravets of Matura, and Welleboda Pattu of the Matura district; Girreway Pattu, within the Southern Province.

2. Has had its effect.

17th October 1866.

170.

No. 4 OF 1866.

An Ordinance to enlarge the power of the Surveyor General to demand the Production of Deeds and make Surveys of Lands, and to facilitate the proof of Surveys.

WHEREAS the continued encroachments made by private individuals upon lands belonging to the Crown, and the necessity for ascertaining and distinguishing the lands belonging to the Crown from those belonging to private individuals, render it necessary that the Surveyor General and his officers should be vested with increased powers to demand the production of title deeds, and to make surveys of lands, whether public or private; and whereas it is expedient to facilitate the proof of Government surveys: It is therefore enacted as follows: Preamble.

1. It shall be lawful for the Surveyor General, or any of his assistants, or for any person authorized in that behalf in writing by the Surveyor General, whenever to them it shall appear Surveyor General, &c. may demand

production of deeds.

necessary to do so, to demand in writing of the person claiming to be the owner of any land or premises, or of his agent, or of the occupier of any such land or premises, the production of every deed, document, or instrument upon which such person founds his claim; and if such agent, or the occupier of any such land or premises, shall refuse to give full information respecting the name and residence of the alleged owner, and of the person by whom such agent or occupier is employed, and in whose possession the said deeds, documents, and instruments are, upon being requested so to do by the Surveyor General, or on his behalf as aforesaid, or if such alleged owner, or agent, or occupier shall refuse to produce to the Surveyor General, or to any person on his behalf, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land or premises, and which shall be in his possession, or if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform the Surveyor General, or any person on his behalf, upon application, in whose possession they are; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by the Surveyor General, or on his behalf, every such agent, occupier, alleged owner, and person so refusing shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds.

Demand of production of deed to include power of examination.

2. The deeds, documents, and instruments in the preceding clause mentioned shall be produced on the premises to which the same may relate, or at such other place as the person demanding the same may require, and the power of demanding the production thereof, in the preceding clause given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary; and every person refusing or failing to permit such examination of any such deed, document, or instrument, to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to a fine not exceeding five pounds.

Surveyor General may enter into and survey lands.

3. The Surveyor General, or any of his assistants, or any person authorized in that behalf in writing by the Surveyor General, may, after reasonable notice given to the occupier, enter upon any land or premises which it may be necessary for him to inspect or survey, and make such inspection and survey of the same as shall be necessary to enable such Surveyor General, assistant, or other person to ascertain whether such land or premises belongs to Her Majesty, or is the private property of the person claiming the same. General notice, by beat of tom-tom, an hour at least before the entry, that such entry will be made upon the lands in any village, or within any given limits, shall be deemed reasonable notice for the purposes of this Ordinance; but such form of notice shall not preclude the Surveyor General or his assistants from adopting any other form.

Penalty for obstructing Surveyor General, &c.

4. Every person molesting, resisting, or obstructing the Surveyor General or his assistant, or any person authorized by him as aforesaid, or any person acting under the orders of such

Surveyor General, assistant, or other person in the performance of any duty or the exercise of any authority imposed on or vested in him by this Ordinance, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months, or to both.

Penalty on abuse of power by Surveyor General, &c.

5. If the Surveyor General, or any of his assistants, or any person authorized by him as aforesaid, or any person acting under his orders, shall, under pretence of performing any duty or exercising any privilege imposed on or vested in him by or under this Ordinance, abuse his power or use unnecessary violence, or wantonly do any injury, or give uncalled for and vexatious annoyance, every such officer or person shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds.

Proof of plans signed by the Surveyor General.

6. If any plan or survey offered in evidence in any suit shall purport to be signed by the Surveyor General or officer acting on his behalf, such plan or survey shall be received in evidence, and may be taken to be *primâ facie* proof of the facts exhibited therein; and it shall not be necessary to prove that it was in fact signed by the Surveyor General or officer acting on his behalf, nor that it was made by his authority, nor that the same is accurate, until evidence to the contrary shall have first been given.

Copies purporting to be authenticated by the Surveyor General receivable instead of originals.

7. Any plan or survey purporting to be a true copy of one purporting to be signed as aforesaid shall, provided the said copy purport to be signed and authenticated by the Surveyor General or officer acting on his behalf as a true copy of the original, be received in evidence in all cases and for all purposes instead of the original, and may (without proof that the original is not procurable) be taken as *primâ facie* evidence of the truth of the facts exhibited therein as fully as that original may be under this Ordinance; and it shall not be necessary to prove that the said copy was in fact signed or authenticated by the Surveyor General or officer acting on his behalf, nor that it is a true copy, nor that the facts established therein are accurate, until evidence to the contrary shall have first been given.

8. Has had its effect.

17th October 1866.

171.

No. 5 OF 1866.

An Ordinance to facilitate the Recovery of Monies due as Commutation of the Paddy Tax, and of the Performance of Labour.

Preamble.

WHEREAS it is expedient to facilitate the recovery of monies due on the commutation of the Government share of the tax on paddy and on dry grain, and on the commutation of labour

under "The Road Ordinance, 1861:" It is hereby enacted as follows:

1. Has had its effect.

Government Agent, &c. may seize property of defaulters,

2. If any person shall not pay the amount due by him on the commutation of the Government share of the tax on paddy and dry grain as soon as the same is due, either into the office of the Government Agent, or Assistant Government Agent, or to some collector authorized by the Government Agent, or Assistant Government Agent, by writing under his or their hand, to collect or receive the same, or shall be in default in the payment of the same at the time when this Ordinance shall come into operation, it shall be lawful for the Government Agent, or Assistant Government Agent, or any person authorized specially in writing by such Government Agent, or Assistant Government Agent, for nonpayment of such amount, to seize any property whatsoever belonging to the person by whom such amount is due, wheresoever the same may be found within the province or district of such Government Agent, or Assistant Government Agent, and if the amount due on account of such commutation, together with the costs and charges payable under section 6 of this Ordinance, shall not be sooner paid or tendered, to sell the property so seized by public auction at any time not less than ten nor more than thirty days from the time of such seizure.

and may sell the same.

Chairman of provincial or district committee may seize property of defaulters,

3. If any person shall not pay the amount due by him as commutation under the Ordinance No. 10 of 1861, and the further sum of sixpence, as specified in the notice mentioned in section 63 of the said Ordinance, or shall be in default in payment of the same at the time when this Ordinance shall come into operation, it shall be lawful for the chairman of the provincial or district road committee, or any person thereunto authorized specially in writing by such chairman, for nonpayment of such amount (anything in section 64 of the said Ordinance to the contrary notwithstanding), to seize any property whatsoever belonging to the person in default, wheresoever the same may be found within the province or district for which the provincial or district committee is empowered to act, and if double the amount due on account of such commutation, together with the costs and charges payable under section 6 of this Ordinance, shall not be sooner paid or tendered, to sell the property so seized by public auction at any time not less than ten nor more than thirty days from the time of such seizure.

and may sell the same.

Proceeding if defaulter be not possessed of property.

4. If the person in default be possessed of no sufficient property, the Government Agent, or Assistant Government Agent, or the chairman as aforesaid, shall certify the same to the police court of the district in which the money ought to have been paid, and such court shall proceed to deal with the person in default as if a penalty for the like amount had been imposed on him by the said police court, and no sufficient distress could be had thereupon.

Removal of property seized for safe custody,

5. Any moveable property so seized as aforesaid may be removed for safe custody, pending the sale thereof, to such place as the person directing the seizure may think fit; and in case of

the seizure of immoveable property, or of any property which cannot conveniently be removed, it shall be lawful for the person making the seizure to place and keep a person in possession thereof pending such sale.

or keeping a person in charge.

6. It shall be lawful for the Government Agent, or Assistant Government Agent, or chairman of the provincial or district committee, or any person authorized by them as aforesaid, to demand, take, and receive from the person by whom money may be due as commutation, or from the owner or any joint owner of any property which may be lawfully seized for such nonpayment as aforesaid, the several sums of money mentioned, as follows :

Costs and charges of seizure and sale.

(1.) For cost of proceeding to the house or land of the party in default in order to seize property, a charge not exceeding one penny for every shilling due :

(2.) For removal of the goods seized, in case such removal takes place, a charge not exceeding one penny for every shilling due :

(3.) For keeping the same in safe custody in case of such detention, a charge not exceeding one penny per day :

(4.) For keeping a person in possession, in case of a seizure of immoveable property, or if the goods seized are not removed, a charge not exceeding one shilling per day :

(5.) For the expenses of sale, where any takes place, a charge not exceeding sixpence in the pound on the net produce of the sale.

7. It shall be lawful for the Government Agent, or Assistant Government Agent, or chairman of the provincial or district committee, or any person specially authorized as aforesaid, to break open or cause to be broken open in the daytime any house or building for the purpose of seizing property in pursuance of this Ordinance.

Buildings may be broken open for purposes of seizure.

8. In the event of a sale of property seized, the Government Agent, or Assistant Government Agent, or chairman of the provincial or district committee, at whose instance such seizure was made, shall, after deducting the amount due by the defaulter, and also the costs and charges payable under section 6 (which said costs and charges such Government Agent, Assistant Government Agent, or chairman, is hereby authorized to retain), restore the overplus arising from such sale, if any there be, to the owner or joint owner of the property sold.

Return of overplus to owner.

9. If land or other immoveable property be sold for nonpayment of commutation, a certificate substantially in form A. in the schedule hereto annexed, signed by the Government Agent, or Assistant Government Agent, or chairman as aforesaid, shall be sufficient to vest the property in the purchaser, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immoveable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

Certificate of sale.

10. Every Government Agent, or Assistant Government Agent, or chairman as aforesaid, shall, in the execution of the authority

Agents and chairmen of

provincial and district committees liable in damages.

entrusted to them respectively by this Ordinance, be civilly responsible in damages to any person who shall be aggrieved by reason that no commutation was due by him, or of any irregularity of proceeding or abuse of authority on the part of such Government Agent, Assistant Government Agent, or chairman as aforesaid, or on the part of any person specially authorized by them as aforesaid: Provided that no action shall be maintainable against such Government Agent, Assistant Government Agent, or chairman as aforesaid, to recover damages, or for anything done by them under the provisions of this Ordinance, unless such action shall be brought within three months of the time that the cause of action shall have accrued.

Proviso, limiting time of action.

SCHEDULE.

A.

(Section 9.)

Whereas of was in default in the payment of the monies due by him as commutation of and became liable in the sum of £ inclusive of costs, and made default in the payment thereof, and whereas his property was seized in conformity with the Ordinance No. of 1866, and sold also in conformity therewith on the day of and the same was purchased by for the sum of £ which has been duly paid by the said

Now know ye that I (*Government Agent, Assistant Government Agent, chairman of the provincial or district committee, as the case may be*) by virtue of the powers vested in me by the said Ordinance, do hereby certify that the following property, to wit: (*here describe the property accurately*) has been sold and purchased by of for the sum of which he has duly paid, and that the said premises are and shall henceforward be vested in the said his heirs, executors, administrators, and assigns for ever.

Given under my hand at this day of

17th October 1866.

172.

No. 6 of 1866.

An Ordinance to compel the Registration of old Deeds and other Instruments of Title.

Preamble.

Whereas false deeds, sannases, and olas, purporting to bear old dates, are not uncommonly produced in evidence in courts of justice, and it is expedient to provide against them: It is therefore hereby enacted as follows:

1. Has had its effect.

All deeds, sannases, olas, &c. executed

2. All persons holding or claiming title under deeds, sannases, olas, or other instruments on which title to land or other immov-

able property is founded, which bear date on or before the 1st day of February 1840, are hereby required to produce the same before the registrar of lands for the district within which such persons shall respectively reside, on or before the 31st day of December 1867. If such registrar shall reside at an inconvenient distance, such deeds, sannases, olas, or other instruments may be produced before the nearest commissioner of requests or police magistrate, whose duty it shall be to forward the same safely and expeditiously to the Registrar of Lands for the purposes of registration under this Ordinance: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation in the "Government Gazette," to extend the time herein-before limited for the production of deeds, sannases, olas, or other instruments, either as respects the Colony generally, or any particular province or district thereof.

before 1st February 1840 to be produced to Registrar of Lands.

Proviso as to extension of time for producing deeds, &c.

3. The Registrar of Lands shall thereupon cause an exact copy of the said deed, sannas, ola, or other instrument to be made, which said copy shall show the alterations, erasures, interlineations, or other suspicious marks, if any, which may appear in the original, and shall cause such copy to be carefully filed and preserved in his office, and the original to be returned to the person from whom he received the same, with the registrar's endorsement written on some conspicuous part of the deed, ola, or other instrument, and engraved on the sannas, to show that the same was produced before him, and the date of such production.

Registrar to cause exact copy to be made.

4. The registrar shall also cause a list in duplicate to be made monthly of all deeds, sannases, olas, or other instruments produced before him under the provisions of this Ordinance, giving all necessary particulars thereof, and shall transmit one to the Registrar General of Lands, and shall file the other in his own office.

Monthly lists of such deeds, &c. to be made.

5. For facility of reference, a general list, either in alphabetical or other convenient order, shall be made and preserved of all such deeds, sannases, olas, or other instruments in the offices of the Registrar General and district registrar.

General lists thereof to be kept.

6. If any person shall claim interest under any such deeds, sannases, olas, or other instruments, but is unable to produce them owing to their being in the possession of another who refuses to part with them, he shall inform the same to the registrar, who shall thereupon cause such other person to be noticed to produce them. Any person noticed as aforesaid, who fails or refuses to produce any such deed, sannas, ola, or other instrument, shall be liable to a fine not exceeding one pound for every day he so fails or refuses to produce the same.

Process where persons claiming interest under deeds, &c. are unable to produce the same.

7. From and after the 1st day of January 1868, or in case of the time having been extended as herein-before provided, from and after the expiry of such extended time, either in the Colony generally or the particular province or district in respect of which such extension shall have been made, no deed, sannas, ola, or other instrument as aforesaid shall be received in evidence in any civil proceeding in any court of justice for the purposes of creating, transferring, or extinguishing any right or obligation, unless such deed, sannas, ola, or other instrument shall have been

Deeds, &c. not registered not admissible in evidence after January 1868.

previously registered in the manner herein-before directed:

Proviso. Provided that, if it shall be established to the satisfaction of the court before which any such deed, sannas, ola, or other instrument is produced that the same was not registered owing to the absence from the Island of the holder thereof, or of his being under some legal disability, or from other causes utterly beyond the control of the person producing it in evidence, such court may allow the production of such deed, sannas, ola, or instrument, and the same shall be received in evidence notwithstanding that the same shall not have been previously registered as herein directed:

Second proviso. Provided also that nothing in this Ordinance contained shall be held to prevent parties questioning any deed, sannas, ola, or other instrument which may be produced in evidence notwithstanding that the same shall have been registered, and on grounds other than the registration thereof, and on which said other grounds the court before which the question shall arise shall determine as if this Ordinance had not been passed.

Deeds, &c. annexed to others, &c. not affected.

8. Nothing in this Ordinance contained shall affect any deed, sannas, ola, or other instrument which is annexed to other deeds or instruments of title, bearing date subsequent to the first February 1840, and which said other deeds or instruments of title have been bonâ fide transferred and registered as has heretofore been required by law.

17th October 1866.

173.

No. 7 of 1866.

An Ordinance relating to the Police Force.

Preamble. Whereas it is expedient to amend, in certain respects, the Ordinance No. 16 of 1865, entitled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island:" It is enacted as follows:

Meaning of "police officer."

1. The expression police officer shall incluce the chief superintendent of police, provincial superintendents, and assistant superintendents of police, inspectors, serjeants, and constables.

Powers vested in superintendent by section 11 of "The Police Ordinance, 1865," how exerciseable.

2. The powers vested in the chief superintendent of police by section 11 of the said Ordinance shall be exercised by him under the directions of the Governor and Executive Council, and not with their advice and consent, as is in the said section mentioned.

The several officers of police.

3. The 23rd section of the said Ordinance is hereby repealed, and it is enacted instead thereof, that the administration of the police in this Island shall be vested in the chief superintendent of police, provincial superintendents and assistant superintendents of police, inspectors, serjeants, and constables. The powers vested by the said Ordinance in provincial inspectors shall be exercised by the superintendents and assistant superintendents, and the provisions in the said Ordinance contained respecting provincial inspectors shall apply to such superintendents and assistant superintendents respectively.

4. The appointments under the said Ordinance and under this Ordinance, to which are attached salaries exceeding two hundred pounds a year, shall be held during the pleasure of Her Majesty, her heirs and successors: Provided that it shall be lawful for the Governor to appoint any person provisionally to such offices until the pleasure of Her Majesty shall have been made known. Appointments under Ordinance.

5. The 35th and 36th sections of the said Ordinance are hereby repealed, and it is enacted instead thereof, that the assessment to be made in any town for the purposes of creating a fund for the maintenance of a police force therein shall be made by three or more persons appointed by the Governor, with power to them to act separately or collectively as the Government Agent shall direct; and each person so appointed shall be entitled to receive such remuneration as the Governor may in his discretion award. Repeal of sections 35 and 36, and power to appoint three or more assessors to assess the town, acting separately or collectively.

6. The assessors for the first year in which a police force is to be introduced in any town may be appointed before the introduction of such force, and every such assessor, when so appointed, shall have and exercise the powers conferred on the committee of assessors by the 37th and 38th sections thereof, notwithstanding that the Ordinance shall not have been brought into operation in such town. For every year after the first the assessors shall be appointed within such time before the commencement of each year as the Governor shall deem reasonable. Time for appointment of assessors.

17th October 1866.

174.

No. 8 of 1866.

An Ordinance to provide against the spread of Contagious Diseases in this Island.

Whereas it is desirable to provide against the introduction and spread of certain malignant diseases generally believed to be of a contagious or infectious nature: It is enacted as follows: Preamble.

1. Repealing clause.

2. For the purposes of this Ordinance, it shall be lawful for the Governor from time to time to appoint within each province two or more persons to form the board of health in such province, and, if need be, to remove such persons, or any of them, and to appoint others in their place: Provided, that if any town in such province shall have been heretofore, or shall be hereafter, created a municipality, the municipal council of such town shall form the board of health thereof, and shall exercise the powers and shall be subject to the obligations vested in boards of health by this Ordinance, by the Ordinance No. 15 of 1862, entitled "The Nuisances Ordinance, 1862," and by any other Ordinance now in force or to be hereafter enacted: Provided further, that, except in the case of municipalities, the boards constituted and appointed Board of health within each province. Proviso in case of municipalities. Second proviso.

under the Ordinance No. 10 of 1852 shall continue to act as boards of health under the present enactment until other appointments shall have been made.

Cases of small-pox or cholera, &c. to be reported.

3. Every householder residing in this Colony shall be bound to report, with the least possible delay, to the superintendent of police, or to some inspector of police, or to some police constable or headman of his town or village, every case occurring in the house in which he resides of small-pox, cholera, or other disease which may from time to time be named by the Governor in a proclamation to be by him for that purpose issued, and any householder neglecting to make such report shall be liable, on conviction thereof, to a fine not exceeding two pounds; and every inspector of police, police constable, or headman, to whom any such case shall be reported by such householder, or by any other person, or who shall know of the existence of any such case within such town or village, shall forthwith report the same to the superintendent of police, or to some justice of the peace for the district in which such town or village is situated.

Medical man to report such cases if not already reported.

4. The medical attendant of any person attacked with small-pox, cholera, or other disease as aforesaid, shall be bound to report the same with all convenient despatch to the superintendent of police of the town, or to some inspector of police, or to some police constable or headman of the town or village in which such person resides, unless such medical attendant has credible information that such case has already been reported; and any medical man neglecting to make such report, he not having received credible information that the case has been already reported, shall be liable, on conviction thereof, to a fine not exceeding five pounds.

Houses infected with small-pox may be marked.

5. The superintendent of police of the town or place, or any police magistrate for the district in which any case of small-pox occurs, shall be entitled, if he shall see occasion, to place or cause to be placed on the wall or door of the house or building in which such disease exists any mark which he may think advisable for the purpose of denoting the existence of the disease, and to keep such mark affixed for such time as he may deem necessary; and any person removing or obliterating any such mark without the authority of such superintendent of police or police magistrate, shall, on conviction thereof, be liable to a fine not exceeding five pounds.

Penalty for removing mark.

On application of the head of a family, an affected person may be removed to hospital.

6. It shall be lawful for the superintendent of police of the town or place, or for any justice of the peace for the district in which any case of small-pox, cholera, or other disease as aforesaid occurs, upon the application of the head of a family or of the owner or occupier of the house in which such case occurs, to make an order in writing for the removal of the person affected with the disease (in such manner and with such precautions as he shall deem necessary) to some public hospital or place provided by Government for the reception of persons so affected, and for the detention of such person therein under proper medical care, for such time as the medical officer in charge of such hospital or place shall deem necessary; and any person resisting or preventing the removal of any other person for whose removal an order has been

Penalty on person resisting removal.

given on such application as aforesaid, shall, on conviction thereof, be liable to a fine not exceeding five pounds.

7. It shall be lawful for any inspector of police, police constable, or headman of any town or village, forthwith to take and remove to the nearest hospital or place provided by Government for the reception of small-pox patients any person who shall be found in any street, thoroughfare, or public place in any such town or village whilst the small-pox disease is upon such person.

Persons going about whilst the small-pox is upon them may be taken to the hospital.

8. Any person affected with small-pox, and who knowing himself to be so affected shall wilfully go abroad into any street, thoroughfare, or public place, and any person who shall wilfully expose or take any child or other person affected with small-pox, knowing such child or person to be so affected, in or to any street, thoroughfare, or public place, shall, on conviction thereof, be liable to a fine not exceeding five pounds.

Penalty on persons affected with small-pox wilfully going abroad.

9. The license required by section 4 of the Ordinance No. 15 of 1862 shall be issued by the board of health of the province, and not by the Government Agent or Assistant Government Agent, as is therein required, but if any town within such province shall have a municipality the said license shall be issued by the municipal council of such town: Provided that the sum payable on account of such license shall be carried to the credit of the general revenue, except where there is a municipality, when it shall be received by the municipal council and form part of its funds.

License required by Nuisance Ordinance, 1865, to be issued by board of health.

10. Whereas it is expedient to empower the Government to take precautions for preventing, as far as may be practicable, the introduction into this Colony of infectious diseases; and also to establish regulations and make orders applicable to cases of emergency arising from or relating to the anticipated breaking out or spreading of any infectious or contagious disease, to establish such regulations and make such orders as the circumstances of the case appear to require: It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make such regulations or orders as may seem necessary and expedient to provide for the steps to be taken in the following cases and for the following objects:

Power to Governor to make regulations, &c. to prevent introduction or spread of infectious disease in the Colony.

(1.) In respect to vessels which may at any time arrive at any port or place in this Island having on board any infectious or contagious disease, whether as respects man or beast, or on board of which any such disease may have appeared in the course of the voyage; or which may at any time arrive under any other alarming or suspicious circumstance as to infection; and also with respect to the persons, animals, goods, merchandize, packages, baggage, wearing apparel, and other articles on board the same, so as to remove or lessen the danger of such disease being introduced or spreading in this Island; and also for shortening the time of quarantine to be performed by particular vessels, or by particular persons,

Vessels arriving with infectious disease.

goods, merchandize, packages, baggage, wearing apparel, or any other article, or for absolutely or conditionally releasing them, or any of them, from quarantine:

Infectious disease in the country.

(2.) In case of any infectious or contagious disease of a malignant nature, whether in man or beast, breaking out or spreading in any town or district of this Colony, under circumstances which render it advisable that measures should promptly be taken for securing the public health:

Proviso

Provided that such regulations or orders shall be inserted in the "Gazette," and that any public officer taking action thereunder shall be bound to report the case, with all necessary particulars, without delay, to the Governor.

Penalty for disobeying Governor's orders as aforesaid.

11. If any person shall knowingly and wilfully disobey or contravene any order or direction made and given by the Governor, with the advice of the Executive Council, under the authority of the preceding section, or any order or direction given under the authority and in pursuance of any such order of the Governor as aforesaid, every person so refusing or neglecting to obey any such order or direction shall be guilty of an offence, and liable, on conviction thereof, to a fine not exceeding fifty pounds.

12. Has had its effect.

27th October 1866.

175.

No. 11 of 1866.

An Ordinance to empower the trustees and managers of the Ceylon Savings Bank to grant a Pension to Mr. Jacob Piachaud for his services as Actuary of the Institution.

Preamble.

Whereas the trustees and managers of the Ceylon Savings Bank have represented to the Governor of this Island that Mr. Jacob Piachaud has faithfully and zealously served the said institution as accountant and actuary since the month of August 1832, and that, from advanced age and physical infirmity, he is now no longer able to perform efficiently the duties of his present office of actuary, and that he is eminently deserving of a pension for his said services, and that the institution can well afford to grant him such pension from the interest accruing from its surplus profits, which amount at present to the sum of 7,229*l.*:

And whereas the said trustees and managers have applied to the Governor to authorize them by an Ordinance, to be for that purpose enacted by the Legislative Council of this Island, to grant such pension and make the same a charge on the interest accruing from the said surplus profits of the said bank:

And whereas the application made by the trustees and managers is reasonable and just, and it is expedient to grant the same : It is therefore enacted as follows :

1. The trustees and managers of the Ceylon Savings Bank are hereby empowered (anything in the Ordinance No. 12 of 1859, entitled an Ordinance "for the better regulation of the Ceylon Savings Bank," to the contrary notwithstanding) to grant to Mr. Jacob Piachaud, the present actuary of that institution, for his services as accountant and actuary as aforesaid, a pension or retiring allowance, calculated according to the rules prescribed for the computation of the pensions of the civil servants of this Island, and from time to time to pay such pension or allowance from the interest accruing from the surplus profits of that institution, on which said interest the said pension or allowance is hereby made a charge. Pension granted to Mr. Piachaud for his services.

2. Has had its effect.

14th November 1866.

176.

No. 13 OF 1866.

An Ordinance to provide for the Construction, Up-keep, and Repair of Branch Roads.

WHEREAS it is expedient to consolidate and amend the Branch Roads Construction Grants-in-aid Ordinances of 1857, 1858, and 1865, and to provide for the construction, up-keep, and repair of branch roads : It is hereby enacted as follows : Preamble.

I.—*Preliminary.*

1. This Ordinance may be cited for all purposes as "The Branch Roads Ordinance, 1866." Short title.

2. Has had its effect.

3. In the construction and for the purposes of this Ordinance, the word "proprietor" shall mean the sole or any joint owner of an estate, and the word "estate" shall mean a tract of land exceeding fifty acres, cultivated or uncultivated, belonging to one person or to several persons and forming a separate or distinct property : Provided that nothing in this Ordinance contained shall be held to apply to proprietors of paddy lands or to lands cultivated with paddy or other grain. Interpretation.

4. Repealing clause.

II.—*Construction of Branch Roads.*

Application for grants-in-aid.

5. The proprietors of any three or more estates, situated in the same district, to which there is no available cart road leading from some convenient principal thoroughfare, may make application, in writing, to the provincial road committee of the province in which such estates are situated, that the provisions of this Ordinance be extended to the said district; and shall set forth in such application, so far as they may be able to ascertain the same, the following particulars:

(1.) The name of the said district.
(2.) The names of all estates therein.
(3.) The names of the proprietors, or, if unknown, of the resident managers.
(4.) The extent (so far as is known) of the land belonging to such estates under cultivation.
(5.) The nature and quantity of the average annual produce of the cultivated estates in such district.
(6.) The estimated length in miles of road required to be made to connect such estates in the district with the most convenient principal thoroughfare.
(7.) The amount which, in the opinion of the applicants, will be required for the construction of the proposed road.

If the estates in any district fall within two provinces, it shall be lawful for the Governor to choose the province, the provincial road committee of which shall be empowered to act as provided by the Ordinance, and upon such choice being made and published in the "Government Gazette," the provincial road committee of the province so chosen shall have power to act as herein-after provided.

Provincial committee to define limits of district.

6. On receipt of such application the said provincial committee shall give such public notice, by publication in three consecutive numbers of the "Government Gazette," as they think necessary, of their intention to define the limits of the district, the estates in which, if the proposal for the construction under the provisions of this Ordinance of such branch road be adopted by the proprietors of two thirds of the acreage in such district, as herein-after provided, will become and be severally bound and liable for the amount of contribution towards the construction of such road which the said estates may be afterwards assessed at, in manner provided by this Ordinance; and in such notice the said committee shall appoint the time and place at which they will take evidence, if necessary, and receive and consider the objections of any proprietor to his estate being included within the limits of such district; and the said committee, after making such inquiry as they may deem requisite, and considering any such objections, shall proceed to define the limits of such district, and shall enter a description of such limits in the minutes of their proceedings; and the chairman of such committee shall thereupon transmit to the pro-

prietor (or, in case of his absence from the Colony, to the resident manager, or if there be no resident manager to the agent, if any, in this Colony, of the proprietor) of every estate within the limits of such district, so defined as aforesaid, a requisition (A.) calling upon him to declare in writing, within such time as shall be therein specified, whether he desires that the provisions of this Ordinance should be extended to such district for the purpose of the construction therein of a branch road. If there be no known agent, the chairman shall cause such requisition to be affixed in some conspicuous part of the estate, and published in three consecutive numbers of the "Government Gazette." If no answer be sent to the said chairman within the time limited by such requisition, the person to whom the same was forwarded shall be deemed and taken to have concurred in the proposal referred to therein.

Requisition thereon to proprietors.

7. If it shall appear to the provincial committee from the plies to such requisitions, or otherwise, that the proprietors of ro thirds at least of the acreage in any such district are desirous at the provisions of this Ordinance should extend and be applied the said district for the purpose of constructing therein a branch ad, the said committee shall forthwith forward such application Government, together with their report as to the necessity for ch road, and as to the line, direction, and terminus which they commend as best adapted for the general convenience of the strict; and thereupon it shall be lawful for the Governor to direct the Commissioner of Roads to examine the said district, and to report as to the best mode of giving effect to the proposal, and to frame and submit an estimate of the probable cost of properly constructing and metalling the proposed road in such sections as the provincial committee shall determine.

Proceeding if proprietors of two thirds of acreage agree.

Proceedings thereon.

8. Upon receipt of the report of the Commissioner of Roads and of the estimate prepared by him as aforesaid, it shall be lawful for the Governor, if to him, with the advice of the Executive Council, it shall appear expedient so to do, to propose such estimate in the Ordinance for making provision for the contingent expenditure of the Colony for the ensuing year, or for any year thereafter, to be brought before the Legislative Council to be dealt with as any other estimate so proposed; and if the estimate so proposed be approved by the Legislative Council, and a sum of money equal to one moiety of the total cost of constructing the proposed road be duly voted by the Legislative Council, the proprietors of all the estates within the limits of such district so defined as aforesaid shall become and be severally bound and liable for their contribution equal to the other moiety, in proportion to the rates, to be determined by an assessment as herein-after provided, and the same shall be a first charge upon the estates respectively.

A moiety of proposed cost may be granted out of the public funds.

9. The provincial committee shall proceed to assess the proportion due by each estate, by dividing the sum of money, equal to a moiety of the total cost of constructing each section of the proposed road, by the total number of acres of the estates interested in and capable of using such section (subject to the exception in section 10 specified), and thus apportioning the amount due upon each acre; and the rate assessed by the committee shall be binding

The provincial road committee to assess the share to be contributed by each estate.

Proceeding thereon.

and conclusive on all proprietors of estates in such district; and the chairman of such committee shall thereupon transmit to the proprietor of each estate (or, in case of his absence from the Colony, to the resident manager, or, if there be no resident manager, to the agent, if any, in this Colony of the proprietor) a requisition (B.), calling upon him to pay into the Colonial Treasury, within such time as shall be therein specified, the amount of the contribution due by him to make up the moiety payable by the proprietors. If there be no known agent, the chairman shall cause such requisition to be affixed in some conspicuous part of the estate; and the chairman shall also cause a notice to be published in three consecutive numbers of the "Government Gazette," specifying the estates which will have to contribute towards the construction of the proposed road, the sum each estate is assessed at, and the time within which the several contributions are to be paid into the Colonial Treasury.

Publication of notice in "Gazette."

Provincial committee to exempt from assessment lands inaccessible, obviously unfit for cultivation, or lands which had been cultivated and abandoned.

Proviso that the exemption should be promptly claimed.

10. If by reason of any estate, or any portion not less than half of the entire extent thereof, being inaccessible or obviously unfit for cultivation, or having been cultivated and abandoned, or from other like cause, it shall seem to the provincial committee right to exempt such estate or portion thereof from the assessment, it shall be lawful for such committee to do so, and to proceed in its assessment as if there was no such land in the district: Provided that to entitle a proprietor to such exemption, he or the person representing him shall claim the same at the time and place appointed by the provincial committee for hearing objections of proprietors or agents to estates included within the limits of the district as provided by section 6, and shall, at his own cost and expense, satisfy the committee, by such proof as it shall call for, that he is entitled to such exemption: Provided further that, should the proprietor of any such estate or portion thereof, or any person claiming under him, bring such estate or portion thereof nevertheless into cultivation afterwards, and use the road for the purposes of or with a view to such cultivation (of which facts the provincial committee for the time being shall be the sole and final judge), it shall be competent for such provincial committee to call upon such proprietor or person to pay the sum which he would have been liable to pay had the estate or portion thereof not been exempted from the original assessment, and in default of his paying the same to proceed to recover such sum in the manner herein provided for the recovery of sums assessed; and the provincial committee shall apply such sum for the up-keep and repair of the road.

Further proviso, making such lands liable if they are nevertheless cultivated afterwards, and the road used for the conveyance of their produce.

III.—*Completion and Repair of Branch Roads.*

If amount of first estimate prove insufficient, further estimates are to be made, and the

11. If, after any road shall have been commenced under the provisions of the Ordinances hereby repealed, or of the present Ordinance, the estimate originally made shall prove insufficient for properly constructing and metalling the same, the estates in the district (including any which may have been opened since the original assesssment) shall become and be held liable for a moiety

of the further sum or sums required to complete the road, and it shall be lawful for the Governor to direct the Commissioner of Roads to frame and submit further estimates for the purpose aforesaid; and on such further estimates being prepared the provincial committee shall proceed, once or oftener, if necessary, to assess the proportion due by the estates in each section of the road to make up the moiety of such further estimates, and to take the further proceedings prescribed for the original assessment of the proportion due by each estate under section 9 of this Ordinance; and the rate or rates assessed by such committee shall be binding and conclusive on all proprietors of estates in the district, and shall be recovered as prescribed herein, and applied, with the other moiety to be contributed by the Government (either by labour under "The Thoroughfares Ordinance, 1861," or money from the Treasury), for the completion of the said road.

rates payable by the estates to be assessed in like manner as the original rates.

12. Whenever it shall be found necessary at any time to repair any road constructed under the provisions of the Ordinances hereby repealed, or of the present Ordinance, the estates in the district (including any which may have been opened since the original assessment) shall become and be held liable for a moiety of the sum or sums required for making the necessary repairs (provided that the amount of tolls which may be collected on such road shall be deducted from the moiety assessed on the estates), and it shall be lawful for the Governor to direct the Commissioner of Roads to frame and submit one or more estimates for such repairs; and on such estimate or estimates being prepared the provincial committee shall proceed to assess the proportion due by the estates in each section of the road, to make up the moiety of such estimate or estimates, less the tolls as aforesaid, and shall take the further proceedings prescribed for the original assessment of the proportion due by each estate under section 9 of this Ordinance; and the rate or rates so assessed by the committee shall be binding and conclusive on all proprietors of estates in the district, and shall be recovered as prescribed herein, and applied, with the other moiety to be contributed by the Government (either by labour under the "Thoroughfares Ordinance, 1861," or money from the Treasury), for the purpose of repairing the said road.

Further rates for repairs.

IV.—*Recovery of Sums assessed.*

13. If any proprietor shall neglect or refuse to pay his proportion of the said moiety, for any of the purposes above specified, within the time fixed for the payment of the same, or shall be in default in the payment of the sums assessed under the Ordinances hereby repealed, or any of them, it shall be lawful for the provincial committee to order proceedings to be taken for the recovery of the same. Whereupon the chairman of the provincial committee, or any person authorized by writing under his hand, shall proceed to seize the estate assessed, and if the amount due, together with the costs and charges payable under section 15 of this Ordinance, shall not be previously paid or tendered, to sell the

Provincial road committee may seize and sell the property of any proprietor, who refuses or neglects to pay his share.

said estate so seized, by public auction, at any time not less than thirty nor more than sixty days from the time of such seizure; and the amount due by such proprietor shall be a first charge upon the estate, but the said estate having been seized and sold as aforesaid, the proprietor thereof shall stand free from all further demands, and shall not be liable to have his other property or his person seized for the balance, if any, of such assessment: Provided that it shall be lawful for the other proprietors, or any one or more of them, to advance the amount due by the proprietor in default, so as to prevent delay in the construction of the road, without in any way affecting the right of the provincial committee to seize and sell as aforesaid, which it shall be obligatory on the provincial committee to do in such case, paying over from the proceeds the sum so advanced: Provided further, that in the case of a proprietor absent from the Island and not represented by any person therein, the sale shall not take place without notice of sale being published in the "Government Gazette" for six months previous to the sale, and being affixed in some conspicuous part of the estate.

Amount may be advanced by other proprietors, without prejudice to the committee's right of action.

Keeping a person in charge of property seized.

14. It shall be lawful for the person making the seizure to place and keep a person in possession of the land so seized as aforesaid, pending such sale.

Costs and charges of seizure and sale.

15. It shall be lawful for the chairman of the provincial committee, or any person authorized by him as aforesaid, to demand, take, and receive from the person by whom money may be due as aforesaid, or from the owner or any joint owner of any property which may be lawfully seized for such nonpayment as aforesaid, the several sums of money mentioned, as follows:

(1.) For cost of proceeding to the land of the party in default in order to seize the same, a charge not exceeding one shilling for every pound due:

(2.) For keeping a person in possession, a charge not exceeding one shilling per day:

(3.) For the expenses of sale, a charge not exceeding sixpence in the pound on the net produce of the sale.

Return of overplus to owner.

16. In the event of a sale of property seized, the chairman of the provincial committee at whose instance such seizure was made shall, after deducting the amount due as aforesaid, and also the costs and charges payable under section 15 (which said costs and charges such chairman is hereby authorized to retain), restore the overplus, if any, arising from such sale to the owner or joint owners of the property sold.

Certificate of sale.

17. If land be sold for nonpayment as aforesaid, a certificate substantially in form C. in the schedule hereto annexed, signed by the chairman, shall be sufficient to vest the right, title, and interest of the proprietor in default in the purchaser, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immoveable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

18. The provincial committee the chairman of which shall cause property to be seized and sold as aforesaid, shall, in the execution of the authority entrusted to them by this Ordinance, be civilly responsible in damages to any person who shall be aggrieved by reason of any irregularity of proceeding or abuse of authority on the part of such chairman as aforesaid, or on the part of any person specially authorized by him as aforesaid: Provided, however, that no such action shall be brought against the provincial committee, or any of its officers, after the expiration of six months from the time that the cause of action shall have arisen.

Provincial committees liable in damages.

Proviso.

V.—*General Provisions.*

19. If costs shall be incurred in any suit, other than that provided by the preceding section, brought by or against the committee for anything done under the provisions of this Ordinance, or if a survey be indispensable to enable the provincial committee to act, and such committee shall therefore order one to be made, such costs and the expenses of such survey shall be payable by the proprietors of the estates in the district in equal proportions; and if any proprietor refuse or neglect to pay his proportion when required to do so, the chairman shall recover the same in the manner and subject to the provisions herein prescribed under the fourth division of this Ordinance relating to "recovery of sums assessed."

Costs.

20. It shall be lawful for the Governor, with the advice of the Executive Council, to make the grant of the moiety voted by the Legislative Council subject to such regulations for ensuring the due outlay and appropriation of the contribution, as well from the public funds as by the proprietors, as the Governor, with the advice of the Executive Council, shall think fit from time to time to establish, either specially in each case, or generally applicable to all cases: Provided that no warrant shall be issued to the Treasurer for the payment of any such sum of money, or of any part thereof, from the colonial treasury, nor shall any sum be issued by him from the said treasury, until the other moiety of the estimated cost of constructing or repairing such road, or so much of such moiety as the Governor may think necessary, shall have been deposited in the said treasury by or on behalf of the proprietors of such estates as aforesaid.

The grant of the moiety may be made subject to conditions.

Moiety not to be paid by Government till deposit of their moiety or part thereof by proprietors.

21. Every road towards the construction or repair of which any money shall be issued from the colonial treasury, under the authority of this Ordinance, shall be deemed and taken to be a public road to all intents and purposes.

Roads for which such grants in aid are made to be deemed public roads.

22. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation in the "Government Gazette," to direct that tolls not exceeding those specified in the Ordinance No. 22 of 1861, entitled "An Ordinance to consolidate and amend the Law in respect to the Collection of Tolls," or in any Ordinance to be in that behalf hereafter enacted, shall be levied on any of the roads which shall have been made or completed or repaired

Tolls on branch roads.

under the provisions of the Ordinances hereby repealed, or which shall be made or completed or repaired under the provisions of this Ordinance, and to determine at what place the tolls so levied shall be collected, and the places from time to time in like manner to alter, and other places to establish instead thereof, for the collection of such tolls; and when the tolls shall have been so established, the provisions of the said Ordinance No. 22 of 1861, or of any other Ordinance to be in that behalf hereafter enacted, shall, so far as they are applicable thereto, be of force in respect of the tolls to be levied, in virtue of the proclamations to be made as aforesaid, and shall be read and construed as if the said provisions had been expressly enacted as applicable to the said places, and shall be applied, observed, and put in execution accordingly.

And may fix toll stations.

Provisions of the Ordinance No. 22 of 1861 extended to the tolls to be so established.

Proprietor may be represented by resident manager or agent.

23. In case of the absence from the Colony of the proprietor of any estate, the resident manager, or, if there be no resident manager, the agent, if any, in this Colony, of the proprietor, shall and may represent such proprietor, and act for him in all matters and things which it may be lawful or necessary for such proprietor to do under any of the provisions of this Ordinance. If there be no known agent, notice affixed on the land and published in the "Government Gazette" shall be deemed notice to the proprietor.

Provisions of Ordinance No. 10 of 1861 to be in force so far as they are consistent with this Ordinance.

24. The provisions, regulations, and directions in "The Thoroughfares Ordinance, 1861," contained, so far as they are applicable to the making and repairing of roads, and not inconsistent with this Ordinance, shall be of force in respect of the roads to be constructed or repaired under this Ordinance, and shall be read and construed as if such provisions, regulations, and directions had been inserted herein as applicable to the said roads, and shall be applied, observed, and put in execution accordingly.

Pupuressa Road to be repaired as a branch road.

25. Whereas the road leading from the Gampolla and Pussellâwa Road to Pupuressa, and known as the Pupuressa Road, was originally constructed by the proprietors of certain estates, and it is expedient to provide for its up-keep and repair as if it were a branch road constructed under this Ordinance: It is enacted that henceforward such road shall be treated as a road made under this Ordinance, and provision shall be made for its up-keep and repair as if it had been originally constructed under the provisions of this Ordinance.

Provisions of this Ordinance to apply to all lands assessed after 1st September 1868.

26. The provisions of this Ordinance shall be held to apply to all assessments of lands made since the first day of September last under the provisions of the Ordinances hereby repealed.

SCHEDULE.

A.

(Section 6.)

Office of the Provincial Committee,
Kandy, 18

To
Proprietor (*or* Resident Manager) of Estate.

SIR,

IT has been proposed to construct a branch cart road leading from the main road near the mile post (*or* at the village of) to the district of in which your estate is situated, under the provisions of "The Branch Roads Ordinance, 1866;" and I am therefore to request you will fill up the accompanying paper, and return the same to me before the day of next ensuing, in failure whereof you will be deemed to have concurred in the said proposal.

I am, sir,
Your obedient servant,

Chairman Provincial Committee.

(*Paper referred to in the foregoing Letter.*)

186 .

To the Chairman of the Provincial Committee for the *Central* Province, *Kandy.*

SIR,

I HEREBY declare that I (do *or* do not) desire that the provisions of "The Branch Roads Ordinance, 1866," should be extended to the district of , in which my estate (*or*, the estate under my management) called is situated, for the purpose of the construction of a branch cart road to the said district, from the main road to near the mile post (*or*, at the village of).

I am, sir,
Your obedient servant,

Proprietor (*or* Resident Manager *or* Agent)
of Estate.

B.

(Section 9.)

Office of the Provincial Committee,
18

To
Proprietor (*or* Resident Manager *or* Agent) of
Estate.

SIR,

THE Governor, with the advice and consent of the Legislative Council, having agreed to grant a moiety for the construction (*or* completion, *or* repair, *as the case may be*) of a branch cart

road, leading from the main road near the mile post, (*or* at the village of) to the district of in which your estate is situated, the provincial committee, acting under the provisions of "The Branch Roads Ordinance, 1866," have assessed the proportion due by your estate at £ which sum you are hereby required to pay into the Colonial Treasury, on or before the day of 18

I am, sir,

Your obedient servant,

Chairman Provincial Committee.

C.

(Section 17.)

Whereas of was in default in the payment of the moneys due by him as contribution for constructing (*or* completing, *or* repairing, *as the case may be*), under the Branch Roads Ordinance, 186 , and became liable in the sum of £ , inclusive of costs, and made default in the payment thereof: And whereas his property was seized in conformity with the said Ordinance, and sold, also in conformity therewith, on the day of , and the same was purchased by for the sum of £ which has been duly paid by the said

Now know ye that I chairman of the provincial committee, by virtue of the powers vested in me by the said Ordinance, do hereby certify that the following property; to wit (*here describe the property accurately*), has been sold and purchased by of for the sum of which he has duly paid, and that the right, title, and interest of the said in the said premises are and shall henceforward be vested in the said , his heirs, executors, administrators, and assigns for ever.

Given under my hand at this day of

5th December 1866.

177.

No. 15 of 1866.

An Ordinance relating to Arbitration and Awards, and to provide for summary reference to Courts.

Preamble. Whereas it is expedient to facilitate the settlement of differences by arbitration, and by summary recourse to courts: It is therefore hereby enacted as follows:

Short title. 1. This Ordinance may be cited for all purposes as "The Arbitration Ordinance, 1866."

2. Has had its effect.

Arbitration and Awards.

I.—*Reference to Arbitration.*

All civil matters may be referred to arbitration.

3. All matters in dispute between parties, which may form the subject of civil action, and not that of an indictment or criminal proceeding, may be submitted to arbitration.

Arbitration may be compulsory or voluntary.

4. A submission to arbitration may be *compulsory* by order of court, or *voluntary* by the consent of parties.

II.—*Compulsory Reference.*

Power of court to direct arbitration.

5. If at any time after the institution of an action it shall appear to the satisfaction of the court that it relates wholly or in part to matters of mere account of an intricate and complicated character, which cannot conveniently be tried in the ordinary way, it shall be lawful for such court to order that such matters, either wholly or in part, be referred to one or more arbitrators to be nominated by the parties, or, if they cannot agree or refuse to nominate them, by the court itself, upon such terms as to the costs and otherwise as such court shall think reasonable. The award of the arbitrators or of the umpire shall be reported to the court, and shall, subject to the provisions herein-after contained, be treated as if it were a finding of the court on the particular matter referred to arbitration.

Court may determine, however, any particular questions of fact or law upon which allowance of any item of account may depend.

6. If at the time of making reference, or at any time thereafter, it shall appear to the court, on a report to that effect made by the arbitrators, that the allowance or disallowance of any particular item in such account depends upon a question of law fit to be decided by the court, it shall be lawful for such court to try and determine such question, and the finding of the court thereupon shall be taken and acted upon by the arbitrators as conclusive.

Power to send back to arbitrators.

7. In every case where reference shall be made to arbitration by the order of court as aforesaid, the court shall, in addition to the general power to remit conferred upon it by section 26, have power from time to time to remit the matters referred, or any of them, for the re-consideration and re-determination of the said arbitrators or umpire, upon such terms as to costs and otherwise as to the court may seem proper.

If action commenced by one party after all have agreed to arbitration, court may stay proceedings.

8. Whenever the parties to any deed or instrument in writing to be hereafter made or executed, or any of them, shall agree that any existing or future differences between them shall be referred to arbitration, and any one or more of the said parties, or any person claiming through or under them, shall nevertheless commence any action against the other party, or against any person claiming through or under them, in respect of the matters so agreed to be referred, it shall be lawful for the court in which the action is brought, on application by the defendants, or any of them, upon being satisfied that no sufficient reason exists why such matters cannot be referred to arbitration according to such agreement as aforesaid, and that the defendants or any of them were, at the time of the bringing of such action, and still are, ready and willing to join and concur in all acts necessary and proper for causing such matters to be decided by arbitration, to make an

order staying all proceedings in such action, and compelling reference to arbitration on such terms as to costs and otherwise as to such court may seem fit: Provided always, that any such rule or order may, at any time afterwards, be discharged or varied as justice may require.

Proceedings before, and power of such arbitrator.

9. The proceedings upon any compulsory arbitration shall, unless otherwise directed hereby, or by the deed or instrument authorising the reference, be conducted in like manner, and subject to the same rules as to the power of the arbitrator and of the court, the attendance of witnesses, the production of documents, the enforcing or setting aside the award, and otherwise, as upon a reference made by consent under a rule of court.

III.—*Voluntary Reference.*

How to be made.

10. Reference to arbitration by consent of parties may be made purely by the acts of the parties, as by deed or other instrument in writing, or by their act with the interposition of the court, as by order in a suit pending.

Where reference cannot be made and is not made a rule of court.

11. Where reference to arbitration is made by deed or other instrument, and such reference contain words purporting that the parties intended that it should not be made a rule of court, and the same is not made a rule of court under section 13 of this Ordinance, the nature and extent of reference, the power of the arbitrators or umpire, and all things connected with, arising from, or relating to such reference, must be limited by the terms and conditions of the deed or other instrument.

IV.—*General Provisions.*

Applications to court for reference to arbitration.

12. When reference to arbitration in a suit is desired, an application must be made to the court by the parties in person, or by their advocates or proctors or agents, specially authorized in that behalf by an instrument in writing, which shall be presented to the court at the time of making the application, and shall be filed with the proceedings in the suit. Such applications shall be substantially in the form A. to the Schedule hereto annexed.

Parties to deed of reference in a suit not pending may apply that the deed be filed in court, and consequences thereof.

13. When any persons shall, by a deed or instrument in writing, agree that any difference between them, not the subject of an action in court, shall be referred to arbitration, and when such difference shall have arisen, application may be made by the parties thereto, or any of them, that the agreement be filed in such court. On such application being made the court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as the court may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. Such application shall be written on a stamped paper of the value prescribed for libels or plaints in any suit involving a like amount, and shall be numbered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs, and the others of them as defendants, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the

other parties as defendants. If it appear from the agreement that the reference shall or may be made a rule of court, the court shall make the same a rule of court forthwith. If such was not provided by the agreement, the court shall proceed to inquire if there be any sufficient cause shown against the agreement being filed, and reference of any dispute thereon being made a rule of court, and if no sufficient cause be shown, the court shall order that such agreement be filed, and an order of reference to arbitration be made thereon. The several provisions in this Ordinance, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under such order of reference made by the court, and to the award of arbitration, and to the enforcement of such award.

Parties to award may apply to have the same filed in court and enforced as an award made under this Ordinance.

14. When any matter has been referred to arbitration without the intervention of any court of justice, and an award has been made, any person interested in the award may, within six months from the date of the award, make application to the court having jurisdiction in the matter to which the award relates, that the award be filed in court. The court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written on the stamped paper required for libel or plaint in any suit involving a like amount, by any law for the time being in force, and shall be numbered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed, and may be enforced as an award made under the provisions of this Ordinance.

Reference to arbitration made under rule of court, or under reference which may be made rule of court, not revocable.

15. The power and authority of any arbitrator or umpire, appointed by or in pursuance of any rule or order of court, in any action now brought or which shall hereafter be brought by, or in pursuance of, any reference containing an agreement that such reference shall be made a rule or order of court, shall not be revocable by any party to such reference without the leave of the court by which such rule or order shall have been made, or which shall be mentioned in such reference; and the arbitrator or umpire shall and may. and is hereby required, to proceed with the reference, notwithstanding any revocation, and to make such award, although the person making such revocation shall not afterwards attend the reference; and the court may from time to time enlarge the term for any such arbitrator or umpire making his award.

Appointment of arbitrators.

If arbitrator or umpire die, or refuse to act or become incapable to act, course to be pursued.

16. The arbitrators shall be nominated by the parties, and the arbitrators or umpire by the parties or by the arbitrators, in such manner as may be agreed upon between them. If the arbitrators or umpire so nominated shall die, or refuse or become incapable to act, and the parties, having had notice thereof, shall refuse or fail to appoint another arbitrator or umpire, as the case may be, within such time as the court shall prescribe, it shall be lawful for the court to appoint new arbitrators or umpire, in the place of the persons so dying or refusing or becoming incapable to act. When the arbitrators are empowered by the terms of the order of reference to appoint another arbitrator or umpire, and they do not

appoint accordingly, or if another arbitrator or umpire, having been appointed, do not act, or if, from any cause, there shall be no other arbitrator or umpire able and willing to act, any of the parties may serve the arbitrators with a written notice to appoint another arbitrator or an umpire; and if, within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint another arbitrator or umpire. In any case of appointment under this section, the arbitrators or umpire so appointed shall have the like power to act in the reference as if their name or names had been inserted in the original order of reference.

Two arbitrators may appoint an umpire.

17. When the reference is to two arbitrators, and the terms of the document authorizing it do not show that it was intended that there should not be an umpire, or provide otherwise for the appointment of an umpire, the two arbitrators may appoint an umpire within the period during which they have power to make an award, unless they be called upon, by notice as aforesaid, to make the appointment sooner.

The court must make order of reference and fix time for making award.

18. Where reference to arbitration takes place in a pending suit, the court shall, by a written order, refer to the arbitrators the matters in difference which they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

Provision for difference of opinion in case of two or more arbitrators.

19. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise, as may be agreed upon between the parties, or, if they cannot agree, as the court may determine.

IV.—*Proceedings before Arbitrators.*

Power of arbitrators appointed under order of court or in pursuance of submission which may be made on rule of court.

20. When a reference is made to arbitration by an order of court, or in pursuance of an agreement that such reference shall be made an order of court, the court shall issue the same process to the parties and witnesses whom the arbitrators or umpire may desire to have examined, as the court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrators or umpire during the investigation of the suit, shall be made subject to the like disadvantages, penalties, and punishments, by order of the court, on the representation of the arbitrators or umpire, as they would incur for the same offence in suits tried before the court.

When arbitrators may administer oath; false

21. When in any order of reference, or in any submission to arbitration, containing an agreement that the submission shall be made a rule or order of court, it shall be ordered or agreed that the parties and witnesses upon such references shall be examined

upon oath, it shall be lawful for the arbitrators or umpire, or any one arbitrator, and they are hereby authorized and required, to administer oaths to such witnesses, or to take their affirmation, in cases where affirmation is allowed by law instead of oath; and if, upon such oath or affirmation, any person making the same shall wilfully and corruptly give false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

oath before them made perjury.

22. The arbitrators acting under any deed of submission, or compulsory order of reference, shall make their award under their hand and (unless such document or order shall contain a different limit of time) within three months after they shall have been appointed, and shall have entered on the reference, or shall have been called upon to act by a notice in writing from any party, but the court or the parties by consent in writing may enlarge the time for making the award. If no period be stated for the enlargement in such consent or such order for such enlargement, it shall be deemed to be an enlargement for one month; and, in any case when an umpire shall have been appointed, it shall be lawful for him to enter on the reference, in lieu of the arbitrators, if the latter shall have allowed their time, or their extended time, to expire without making an award, or shall have delivered to any party, or to the umpire, a notice in writing stating that they cannot agree.

Award to be made in three months unless parties or court enlarge time.

V.—*Award.*

23. When an award in a suit shall be made either by the arbitrators or the umpire, it shall be submitted to the court under the signature of the person by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Award must be signed by party making, and submitted with proceedings, depositions, and exhibits.

24. It shall be lawful for the arbitrators or umpire, upon any reference, by an order of court, if they shall think fit, and if it is not provided to the contrary, to state their award as to the whole or any part thereof, in the form of a special case, for the opinion of the court.

Arbitrators may state their award in the form of a special case.

25. The court may, on the application of either party, modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators, (provided that such part can be separated from the other part and does not affect the decision on the matter referred,) or where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision. The court may also, on such application, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs, and the award contain no sufficient provision concerning them.

When court may modify or correct an award.

26. In any of the following cases the court shall have power to remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators or umpire, upon such terms as it may think proper; (that is to say,)

When court may remit award.

(1.) If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration:

(2.) If the award is so indefinite as to be incapable of execution:
(3.) If an objection to the legality of the award is apparent upon the face of the award.

Setting aside of awards.

27. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the court and notified to the parties in the suit, and not thereafter.

Judgment upon awards.

28. If the court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the court shall have refused such application, the court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and the judgment which shall be so given shall be carried into execution in the same manner as other decrees of the court. In every case in which judgment shall be given according to the award, the judgment shall be final, and shall not be subject to appeal. Where judgment shall be given in any case of compulsory reference, such judgment shall be subject to appeal.

Appeal.

Proceedings on awards not made a rule of court.

29. If there be no cause pending in court, and the submission has not been made a rule of court, the mode of enforcing the award is by action on the bond of submission.

VI.—*Raising Questions for the Decision of a Court.*

Raising question for the decision of a court by any persons interested.

30. Parties interested or claiming to be interested in the decision of any question of fact or law, may submit their differences to the court having jurisdiction to settle the same in the form of a special case written on a paper subject to a stamp duty corresponding to that which would be required for a libel or plaint if one had to be filed in a suit brought to settle those differences; and such special case shall be signed by the parties or by their advocates or proctors or agents, specially authorized thereunto by an instrument in writing which shall be presented to the court with the special case, and shall be filed therewith.

Agreement thereto to be numbered and registered.

31. The special case shall be numbered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs, and the others as defendants; and notice shall be given to all the parties to the special case other than the parties by whom it was presented.

Parties to the agreement shall be then decreed subject to jurisdiction of court.

32. After the special case shall have been filed all the parties to it shall be subject to the jurisdiction of the court, and shall be bound by the statements contained therein.

Proceeding of court on such agreement.

33. The case shall be set down for hearing summarily, and if the court shall be satisfied, after an examination of the parties, or taking such evidence as it may deem proper, that the parties have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, the court shall proceed to hear, try, and determine the same, and to give judgment

thereon, which said judgment may be executed in the same way as if it had been pronounced in a contested suit.

SCHEDULE.

A.

(*Section* 12.)

To the district of

A.B., Plaintiff,

No. *versus*

C.D., Defendant.

The within-named parties (*or*, by their proctor specially authorized thereunto by the document A. hereto appended) do hereby apply that all the matters in dispute in this case be referred to the arbitration of *E.F.* and *G.H.*, with power to them, in case of difference, to appoint an umpire (*name other conditions, if any*).

12th December 1866.

178.

No. 17 OF 1866.

An Ordinance to authorize the Destruction of old and useless Processes and Documents.

WHEREAS certain of the documents now preserved in the courts of justice of this Colony are utterly useless, and the accumulation of them is productive of inconvenience : It is therefore enacted as follows : **Preamble.**

1. It shall be lawful for the Governor from time to time to authorize one or more persons, to be named by him, to destroy the following documents, now of record in the different courts of justice in this Colony, or any of them : **Governor to authorize destruction of processes and records.**

(1.) All ordinary processes of district courts or courts of requests, or any of them, namely, summonses, subpœnas, notices, and rules nisi which have been issued and served at any period more than five years anterior to the date of the authority for their destruction :

(2.) All the records of police courts, or any of them, save and except the record book required by the general rules and orders for police courts bearing date the 17th day of June 1844, and the calendars prescribed by section 26 of the general rules and orders attached to the Schedule A. of the Ordinance No. 18 of 1861, entitled "An "Ordinance for giving effect to certain rules and orders "for the police courts," and which said records shall have been made more than three years anterior to the date of the authority for their destruction :

Provided, however, that it shall be lawful for the persons who may be authorized to destroy processes and records as aforesaid

to preserve any process or record in cases where, from important documents being filed in such record, or from other reasons, it may seem desirable to do so.

2. Has had its effect.

19th December 1866.

179.

No. 19 of 1866.

An Ordinance to prevent the unnecessary Destruction of Fish.

Preamble.

Whereas much wholesale and wanton destruction of fish, and of the brood, spawn, and fry thereof, results from the use of certain kinds of nets in some parts of the sea coast of this Island, and it is expedient to prevent the same: It is therefore hereby enacted as follows:

Governor may prohibit the use of certain kinds of nets, or may attach conditions to the use thereof.

1. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by proclamation in the "Government Gazette," to prohibit the use of certain kinds of nets to be in such proclamation specified, or to restrict their use to certain places, or to attach such conditions to their use, as shall appear expedient to the Governor, with the said advice.

Offence to use nets after prohibition, or contrary to condition.

2. Whoever, after such proclamation, shall use, or join in using, any kind of net so prohibited as aforesaid, or shall use, or join in using them, in restricted places, or shall use, or join in using them, contrary to the conditions which may be attached to such use, shall be guilty of an offence, and shall be liable to a fine not exceeding five pounds, or to imprisonment not exceeding three months, with or without hard labour, or to both; and the net, and other implements belonging thereto, and the fish caught by the same, shall be liable to be seized and disposed of, for the benefit of the Crown, as the police magistrate of the district shall direct.

3. Has had its effect.

19th December 1866.

180.

No. 20 of 1866.

An Ordinance to amend the Ordinance No. 18 of 1844.

Preamble.

Whereas it is expedient to amend the Ordinance No. 18 of 1844, entitled "An Ordinance for the better Regulation of Prisons," with the view of enabling the Government to introduce certain beneficial alterations as respects the enforcement of sentences passed on prisoners, and the observance of due discipline in prisons: It is therefore hereby enacted as follows:

Governor to make rules.

1. Anything in the said Ordinance No. 1 of 1844 to the contrary notwithstanding, it shall be lawful for the Governor,

with the advice of the Executive Council, to make rules and regulations touching the kind of labour to be exacted, at the different stages of their imprisonment, from prisoners who are sentenced to imprisonment with hard labour, the manner and place of exacting the same, the diet of prisoners, their separation from each other, the remission of sentences to be allowed to prisoners who comply duly with the regulations to which they are subjected, and the conditions upon which such remissions are to be made; and also to provide generally for the due enforcement of sentences passed on prisoners, and the observance of proper discipline in prisons; and such rules and regulations, when published in the "Government Gazette," shall have the same force and validity as if they were herein inserted, and breaches thereof shall be dealt with as breaches of prison rules, in the manner provided by the said Ordinance.

Appointment of inspectors.

2. It shall be lawful for the Governor to appoint one or more inspectors to inspect the different gaols in the Island, and such inspectors, when so appointed, shall, in respect of the gaols of which they are appointed inspectors, have the same powers and authorities, and be liable to perform the same duties, as are respectively vested in and imposed on visitors by the said Ordinance.

3. Has had its effect.

19th December 1866.

181.

No. 21 OF 1866.

An Ordinance relating to the Law of Partnership.

Preamble.

WHEREAS it is expedient to amend and declare the law relating to partnership: It is enacted as follows:

1. Has had its effect.

Interpretation of "person."

2. In the construction of this Ordinance, the word "person" shall include a partnership firm, a joint stock company, and a corporation.

Lender not a partner by advancing money for share of profits.

3. The advance of money by way of loan to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person carrying on such trade or undertaking, or render him responsible as such.

Remuneration of agents, &c. by profits not to make them partners

4. No contract for the remuneration of a servant or agent or any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking, shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Partnership. *English Law.*

Certain annuitants not to be deemed partners.

5. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of, or to be subject to, any liabilities incurred by such trader.

Receipt of profits, &c. not to make the seller a partner.

6. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the goodwill of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business.

In case of bankruptcy, &c. lender not to rank, as respects profit or interest, with other creditors.

7. In the event of any such trader as aforesaid being a bankrupt or insolvent, or taking the benefit of any Act for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than twenty shillings in the pound, or dying in insolvent circumstances, the lender of any such loan as aforesaid shall not be entitled to recover any portion of the profits or interest payable in respect of such loan, nor shall any such vendor of a goodwill as aforesaid be entitled to recover any such profits as aforesaid until the claims of the other creditors of the said trader for valuable consideration in money or money's worth have been satisfied.

24th December 1866.

182.

No. 22 of 1866.

An Ordinance to extend the introduction into this Colony of the Law of England in certain cases.

Preamble.

Whereas it is expedient to extend the introduction into this Colony of the Law of England in certain respects : It is therefore enacted as follows :

Law of England to be observed in all commercial matters.

1. In all questions or issues which may hereafter arise or which may have to be decided in this Colony, with respect to the law of partnerships, joint stock companies, corporations, banks and banking, principals and agents, carriers by land, life and fire insurance, the law to be administered shall be the same as would be administered in England in the like case, at the corresponding period, if such question or issue had arisen or had to be decided in England, unless in any case other provision is or shall be made by any Ordinance now in force in this Colony or hereafter to be enacted : Provided that nothing herein contained shall be taken to introduce into this Colony any part of the law of England relating to the tenure or conveyance, or assurance of, or succession to, any land or other immoveable property, or any estate, right, or interest therein.

Proviso.

2. Has had its effect.

24th December 1866.

Loan Board.

183.

No. 3 OF 1867.

An Ordinance relating to the Appropriation of certain unclaimed Balances from the Loan Board.

WHEREAS the appropriation directed by the Ordinance No. 21 of 1865, entitled "An Ordinance to provide for the Appropriation of certain unclaimed Balances from the Loan Board," has not been carried into execution, and it is expedient to alter the same: It is therefore hereby enacted as follows: Preamble.

1. The said Ordinance No. 21 of 1865 is hereby repealed. Repeal of Ordinance No. 21 of 1865.

2. A sum not exceeding thirty-six thousand one hundred and fifty pounds and eleven shillings shall be issued and applied to the execution of the several public works and services herein-after mentioned. 36,150*l.* 11*s.* to be applied to public service.

	£	s.	d.
For additional accommodation in the district court house, Negombo - - -	359	13	8
For additional accommodation in the district court house, Chilaw - - - -	230	0	0
For additional accommodation in the police court house, Kandy - - - -	188	10	3
For building a new court house at Balapitimódara	642	9	6
" " " Mannár -	277	0	0
" " " Panwila -	687	7	1
" " " Oorogalla - -	595	15	4
" " " Batticaloa -	882	10	0
Grant towards law library attached to Supreme Court - - - - -	128	0	0
For alterations and additions to gaols and lock-up houses and the erection of new gaols and lock-up houses, in conformity with the details of estimates to be submitted - - -	32,159	5	2
	£36,150	11	0

3. The Treasurer of the Island shall, from such balances as aforesaid, issue and pay the said several sums for the purposes herein-before mentioned, in such proportions as the Governor for the time being, by any warrant or order in writing to be signed by him, shall from time to time order and direct, and the payments so to be made shall be charged upon and payable out of the said balances. Treasurer to pay same as Governor shall direct.

4. The Treasurer shall in his accounts from time to time be allowed credit for any sum or sums of money paid by him in pursuance of such warrant or order in writing as aforesaid; and the receipt or receipts of the respective persons to whom the same shall be so paid shall be a full and valid discharge to the Treasurer in passing his said accounts, for any such sum or sums as shall be therein mentioned, and he shall and may receive credit for the same accordingly. Treasurer to receive credit for such payments.

9th January 1867.

184.

No. 4 OF 1867.

An Ordinance to amend and consolidate the Law relating to Fiscals and their Officers.

Preamble.

WHEREAS it is expedient to amend and consolidate the law relating to Fiscals and their officers: It is enacted as follows:

Short title.

1. This Ordinance may be cited for all purposes as "The Fiscals Ordinance, 1867."

2. Has had its effect.

3. Repealing clause.

Interpretation clause.

4. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

The word "officers" shall mean all persons employed to carry out the provisions of this Ordinance:

The word "court" shall include all courts of justice, and all persons and tribunals possessing judicial and magisterial authority in this Island:

The word "sentence" shall include all decrees, judgments, or orders of a court:

The word "process" shall include all citations, monitions, summonses, mandates, subpœnas, notices, rules, orders, writs, warrants, and commands issued by a court.

I.—*Fiscals Department and Officers.*

Appointment of Fiscals and Deputy Fiscals.

5. The Governor shall appoint fit and proper persons to exercise the powers and perform the duties of Fiscals for the provinces into which this Island is now or may be hereafter divided, and Deputy Fiscals for each of the districts into which the several provinces may be subdivided. Notice of such appointments shall be published in the "Government Gazette." All appointments to which are attached annual salaries exceeding two hundred pounds payable out of the colonial revenue shall be provisional, and subject to the approval of Her Majesty, her heirs and successors. Each Deputy Fiscal shall within his own district exercise the powers and perform the duties herein-after required to be exercised and performed by the Fiscal for the province: Provided that the Fiscals and Deputy Fiscals heretofore appointed shall continue to act as such until any new appointment shall be made by the Governor, or until the warrant of deputation given to a Deputy Fiscal be withdrawn.

Deputy Fiscal to have powers and duties of Fiscal, but within his district.

Deputy Fiscals should hold warrant of deputation from Fiscals.

6. No person shall act as Deputy Fiscal without a warrant of deputation from the Fiscal substantially according to the form B. in the schedule hereto annexed, and it shall be lawful for the Fiscal to grant such warrants to persons other than those appointed by the Governor to act as Deputy Fiscals, and the last-mentioned persons holding such warrant shall, subject to the directions of the Fiscal, have and exercise all the powers granted by this Ordinance

to Deputy Fiscals. Every Fiscal granting a warrant of deputation shall, within three days after signing the same, send a copy thereof to the Supreme Court, and to every court having jurisdiction within such deputy's district or division, and also to the Colonial Secretary. Like notice shall be given whenever any Fiscal shall revoke a warrant.

Fiscal or Deputy Fiscal may be required to give security.

7. It shall be lawful for the Governor to require every Fiscal and Deputy Fiscal to give security by bond for the due and faithful execution of the duties of his office, in such sum as the Governor shall consider necessary, and every such bond shall be substantially in the form C. and D. respectively in the schedule hereto annexed.

Process servers to be licensed for each district.

8. For the service and execution of processes issued by the courts in this Island, the Fiscal shall license as many process servers for each district as shall appear to him to be necessary, and the licenses to be issued by him shall be substantially in the form E. to the schedule hereto annexed. The Fiscal shall also have authority to revoke any license granted by him whenever it shall appear to him necessary to do so: Provided that it shall be lawful for the Fiscal or Deputy Fiscal to appoint, by writing under his hand, any person to execute process in any particular case.

Power to revoke license.

Fiscal may subdivide district into divisions, and appoint a marshal for each.

Warrant appointing marshal.

Fiscal may revoke warrant.

Notice of appointment and revocation.

9. Whenever satisfactory arrangements can for that purpose be made, it shall be lawful for the Fiscal (and not for any Deputy Fiscal), with the sanction of the Governor, to divide each district into divisions, and to appoint a marshal for each division. Each marshal shall be answerable for the due and faithful execution and service of process within his division. The warrant appointing such marshals shall be substantially in the form F. to the schedule hereto annexed; and the Fiscal shall have authority to revoke any warrant granted by him whenever it shall appear to him necessary to do so. Notice of the appointment or of the removal of marshals shall be published in the "Government Gazette," as also in the division, in such manner as to secure publicity thereto.

Marshal may be required to give securities.

10. The Fiscal may require every marshal to give security by bond for the due performance of the duties entrusted to him, and all officers employed by him, in such sum as shall appear to the Fiscal to be necessary, and such bond shall be in the form D. in the schedule hereto annexed.

Marshal may appoint assistant.

11. Every marshal may appoint an assistant under his hand, giving notice to the Fiscal of such appointment, and subject to the approval of the Fiscal. The marshal shall be civilly responsible for the acts and omissions of his assistant.

Process servers to be employed by marshal.

12. Every marshal shall nominate a sufficient number of process servers for his division, and it shall be incumbent on the Fiscal to issue his license, under section 8, to the process servers so nominated: Provided, however, that the marshal shall be civilly responsible for the acts and omissions of the process servers whom he shall nominate and employ.

Governor may appoint clerks and other officers.

13. The Governor may from time to time appoint such clerks, superintendents of processes, and other officers, as to him may appear necessary, to assist the Fiscals and Deputy Fiscals in the exercise and execution of their respective powers and duties.

II.—*Fees.*

Governor may establish fees and charges payable by suitors for the execution and service of their process.

14. It shall be lawful for the Governor, with the advice of the Executive Council, to make and establish rates of fees and charges payable in each province by suitors, for the execution and service of the process issued at their instance or for their benefit, or on their account, by the courts of civil jurisdiction in this Island, and to direct the mode in which such fees and charges are to be appropriated, and the form and mode in which the accounts of the department are to be kept and its work carried on; and it shall be lawful for the Governor, with the like advice as aforesaid, from time to time to alter and vary such fees, charges, and directions, as shall appear to him necessary; and such rates of fees and charges, when published in the "Government Gazette," shall be deemed of force, and shall be payable by each suitor by the use of stamps as provided by section 16; and such fees shall form part of the costs in the cause, and shall be payable by the party whom the court shall condemn to pay costs: Provided that such fees and charges shall in no case exceed the rates specified in schedule G. hereto annexed.

Such fees shall be deemed part of costs in the case.

15. Repealed.

Fees and charges leviable by stamp duty.

16. The fees and charges payable by suitors under section 14 shall be levied by means of stamp duties in manner following:

Schedule to be supplied with process.

(1.) Whenever a court shall issue one or more processes for service or execution by a Fiscal, the suitor at whose instance, for whose benefit, or on whose account such processes issue, shall be required to supply with such processes a schedule according substantially to the form H. hereto annexed; and every such schedule shall be on stamped paper not less in value than the aggregate sum due as fees and charges according to the rates established under section 14 for the service of the processes issued with the schedule:

Duty of secretary and clerk to issue no process without schedule

(2.) It shall be the duty of the secretary of every District Court and the clerk of every Court of Requests to forward this schedule to the Fiscal or Deputy Fiscal to whom the processes shall be forwarded for execution, and such secretary and clerk shall see that (except in the case referred to in articles 4 and 5 of this section) no process issues from the court without the schedule herein-before required, and that such schedule is duly filled up, and also to enter on the record of the case the date of issue of the process, specifying the number thereof, on pain of being themselves made liable for the amount, if any, lost to the fund created by section 15 by the non-issue of such schedule, or by the same being incorrect in any respect. If any process shall have been directed under section 26 to any person other than the Fiscal and Deputy Fiscal, such secretary and clerk shall send the schedule to the Fiscal or Deputy Fiscal within whose district the same has to be served:

Fiscals.

(3.) No Fiscal or Deputy Fiscal shall cause any process to be executed without a schedule of the required amount (except as provided in articles 4 and 5 of this section) on pain of being himself made liable for the amount, if any, lost to the fund created by section 15 by the want of such schedule :

No Fiscal to cause process to be executed without schedule.

(4.) No Queen's Advocate, or Deputy Queen's Advocate, or public officer, suing or being sued, or intervening in any suit in their official capacity, and no person duly admitted to sue, or defend, or intervene as a pauper, shall be required to furnish any such schedule on stamp as is herein provided; and the secretary or clerk of court shall forward the process, with a schedule not on stamp, on which said schedule, however, shall be marked the value of the stamp duty which would have been payable for such process had the same been issued to any other party. If judgment shall be given in favour of such advocate, public officer, or pauper, the value of the stamps which would have been used by him as schedules of processes, if he had not been allowed to proceed without issuing stamps, or the value of such part thereof as shall be decreed by such judgment, shall be paid by the party against whom such judgment shall have been given to the secretary of the District Court or clerk of the Court of Requests; and, in failure of payment, the said secretary or clerk shall insert the said value in the writ of execution issued by the party in whose favour such judgment shall have been given, and shall pay himself the said value when recovered from the first amount levied under the said writ, and before the payment of the other stamp duty due in the said case under the schedule, part 2, to "The Stamp Ordinance, 1861," annexed. If no such writ shall be issued, the said secretary or clerk shall issue a writ of execution free of stamp duty for the recovery of the said value; and, with the value so recovered, the secretary or clerk shall purchase stamps answering to the value of the schedules which would have been used had such party not been allowed to proceed without using stamps, and forward the same to the Fiscal or Deputy Fiscal, making a note thereof in the record of the case and in the said stamped paper, and such Fiscal or Deputy Fiscal shall include the same in the statements to be furnished by him as hereinbefore provided. If the secretary or clerk shall neglect or fail to perform any duty herein imposed upon him, he shall be held liable for the amount, if any, which may be lost to the fund created by section 15 in consequence of such neglect or failure :

Public officer suing, intervening, or defending officially, and paupers, exempt from giving stamped schedules in the first instance.

(5.) Whenever any court shall order a process, or the issue of any process shall be rendered necessary by or in consequence of the order of any court, and such process shall not have been moved for at the instance of any party to

Provision for processes issued by a court at its own instance.

the suit, it shall be the duty of the secretary or the clerk of court to issue such process in the first instance in blank, and the Fiscals shall be bound to cause the same to be served though issued in blank; but it shall be incumbent on the judge at any stage of the case, before or after its final settlement, to decree who shall pay the costs of the service of such process, and the party so decreed to pay the same shall be liable to make such payment; and it shall be the duty of the secretary or clerk to enforce payment of the same, and to render account thereof to the Fiscal or Deputy Fiscal in the manner provided by the preceding article for the payment of processes issued without payment having been made in the first instance. If the secretary or clerk shall neglect or fail to perform any duty herein imposed upon him, he shall be held liable for the amount, if any, which may be lost to the fund created under section 15, in consequence of such neglect or failure:

Deputy Fiscal to transmit monthly statement to Fiscal of fees due and paid on process.

(6.) It shall be the duty of each Deputy Fiscal to transmit to the Fiscal on or before the 10th day of every month a statement in such form as the Treasurer shall prescribe, showing the number of processes issued for service in the district, and the value of the stamps used for the schedules forwarded with such processes; and the Deputy Fiscal shall also transmit to the Fiscal the schedules received by him from the different courts:

Fiscal to make returns to Treasurer.

(7.) On or before the 20th of each month it shall be the duty of the Fiscal to forward to the Treasurer a statement, prepared in such form as this officer shall prescribe, showing the number of processes issued for service in the provinces, and the value of the stamps used for the schedules; and the Fiscal shall transmit with such statement the different schedules received by him to the Treasurer, whose duty it shall be to file the same in his office:

Treasurer to render quarterly account to Government.

(8.) The Treasurer shall render to the Government quarterly statements of the fees and charges levied under this Ordinance, or any other Ordinance in that behalf hereafter enacted, which said statements shall be from time to time laid before the Legislative Council:

Provisions of Stamp Ordinance to apply to schedules.

(9.) The provisions of "The Stamp Ordinance, 1861," or any other Ordinance to be in that behalf hereafter enacted, will, so far as they are applicable thereto, be held to apply to the stamps prescribed for schedules under the provisions of this section.

Correct accounts of fees, and their appropriation, to be kept by Fiscals, and forwarded periodically to Government.

17. The Fiscal and Deputy Fiscal of each province shall keep correct accounts of all fees and charges collected by them under the authority of this Ordinance, other than those in which special directions are given in section 16, and their appropriation, and shall render the same monthly to the Treasurer in such form and with such particulars as the Governor shall direct.

III.—*Rules and Orders.*

18. The judges of the Supreme Court may from time to time, and subject to the provisions of the Ordinance No. 8 of 1846, or any other Ordinance to be in that behalf hereafter enacted, make rules and orders to regulate the proceedings of Fiscals and other officers created by this Ordinance, in matters not specially provided for in this Ordinance: Provided that such rules shall not be inconsistent with or repugnant to the provisions of this Ordinance.

Rules and orders to be made by the judges of the Supreme Court.

IV.—*Duties and Liabilities of Fiscals.*

19. Every Fiscal and Deputy Fiscal shall be bound, either by himself or by his officers, within the province or district for which he is respectively empowered to act, to execute all sentences and to serve and execute all processes which he may be required or directed by any court to serve or execute according to the extent of its jurisdiction, and to make and certify the return, together with the execution thereof, to the said court, and to receive and detain in custody all persons arrested upon any sentence of the said court, and to receive and detain in prison all such persons as shall be by the said court committed to the charge of such Fiscal or Deputy Fiscal respectively for that purpose.

Duties of Fiscals to execute all sentences, &c. and processes of court, &c.

To receive and detain in custody all persons arrested.

To receive and detain in prison all persons committed to their charge.

20. Every Fiscal shall, during the time he acts as such, in the execution of any process within his province, be civilly responsible in damages to any person who may be aggrieved in consequence of any fraud, gross negligence, or gross irregularity of proceeding, or gross want of ordinary diligence or abuse of authority (but not otherwise) on the part of such Fiscal, his deputy, or other officers, in the execution of such process: Provided that where such damages shall be claimed by reason of the act or omission of any deputy or other officer, the Fiscal shall be entitled to move the court to add such deputy or other officer as a party to the suit, and if the court shall find that such deputy or other officer is responsible for the act or omission owing to which damages are claimed, he shall be primarily responsible to satisfy such judgment, and the security given by him for the due performance of his office shall be available to satisfy the same without any new action being brought on the bond, unless the court shall so expressly direct. The Fiscal shall only be liable to satisfy the judgment if such deputy or other officer shall not be able to satisfy the same; and any payment made by the Fiscal in such case shall be deemed a debt due to the Fiscal which may be enforced at any time by process of execution in the said case on the application of the Fiscal without a new suit: Provided further, that nothing herein contained shall preclude any person aggrieved by the act or omission of the Deputy Fiscal or other officer from giving up his remedy against the Fiscal and suing only the immediate wrongdoer, civilly or criminally, according to the nature and circumstances of the case.

Fiscal civilly responsible for himself and officers.

Proviso.

Second proviso.

21. No action shall be maintainable against any Fiscal, Deputy Fiscal, or other officer to recover damages as aforesaid, unless previous notice in writing, distinctly setting forth the grounds of

Actions against Fiscal.

such action, shall have been given to him, or, if he be absent from the Island, to the person acting for him, by the party aggrieved or his proctor, one month at least before the commencement of such action, and unless such action shall be brought within nine months after the cause of action shall have arisen. It shall be lawful for such Fiscal or Deputy Fiscal or other officer at any time before the commencement of such action to tender amends to the party aggrieved, and, if the same be refused, to plead such tender, at the same time paying into court, for the use of the plaintiff, the amount so tendered, and if the court, on the decision of the said case, shall hold that the amount so tendered and paid into court is sufficient amends for the party aggrieved, judgment shall be entered in favour of the plaintiff for such amount, but he shall be condemned to pay all costs.

Headmen to aid in execution of process.

22. All headmen shall, within their local limits, afford their aid and assistance to the Fiscal and his officers in the lawful execution of their duties, when required by him or them so to do; and any headman wilfully neglecting or refusing to afford such aid or assistance, or making any statement or report to the Fiscal or his officer calculated to mislead or deceive him or them, or wilfully neglecting his duty in any respect, whether when applied to for aid or assistance or not, shall be subject to punishment by fine or imprisonment, with or without hard labour, according to the nature and circumstances of the case.

Resistance to Fiscal.

23. Every person making or inciting resistance or obstruction to any Fiscal, Deputy Fiscal, or other officer, or to the headmen, in the execution of their duty, shall be subject to such punishment, by fine and imprisonment, as it shall be competent to the court before which he may be tried to award.

Fiscal and officers prohibited from taking fees.

24. Any Fiscal, Deputy Fiscal, or other officer who shall demand or take any fee for the service or execution of any process issuing out of any court, or for performing any other business of the Fiscal's office, save and except such fees and charges as are allowed by law, and any person paying or offering such fee, shall be guilty of an offence, and be liable to such punishment, by fine and imprisonment, as it shall be competent for the court before which he may be tried to award.

V.—*Process.*

Certain process of court may run throughout the Island.

25. The process issued by any court, other than a warrant of arrest or writ of sequestration or of execution, may be transmitted to any Fiscal or Deputy Fiscal throughout the Island for service, and the same may be served without any endorsement thereon by the judge of the district in which such process is served; but all proceedings for attachment, contempt, or otherwise against a Fiscal or Deputy Fiscal for neglect or refusal to serve process, or to comply with any order or direction of such court in connexion therewith, or for serving process irregularly or improperly, shall be referred by such last-named court to the court possessing similar jurisdiction within the district of such Fiscal or Deputy Fiscal, and shall be dealt with by such court as if such neglect or

refusal, or such irregular or improper service, related to its own process or orders.

26. Whenever any court shall be required to issue any process or to cause any sentence to be executed against any Fiscal or Deputy Fiscal, or whenever it shall appear desirable to such court that, by reason of his near relationship to any of the parties to a suit, or for any other just cause, operating against such Fiscal or Deputy Fiscal personally, and not merely on the ground of convenience, he should not be required to serve or execute the same, it shall be lawful for the court to name and appoint some other fit person to serve, execute, and return the process, or to execute the sentence, and the same shall thereupon be directed to the person so named, the cause of such special proceeding being suggested and entered on the records of the said court, and being notified at the time to such Fiscal or Deputy Fiscal.

If Fiscal personally interested, service to be made by another to be named by the court.

27. Whenever a marshal is appointed for any division, the process to be executed and served in such division may be transmitted to him by the Fiscal or Deputy Fiscal, and he shall be responsible for their due execution and service, of which he shall make due return through the Fiscal or Deputy Fiscal from whom he shall have received the process; and for this end he shall have all the powers and authorities created by this Ordinance, and necessary for the execution and service of process, and the performance of the duties entrusted to him.

Processes to be forwarded to marshals for execution within their division.

Marshals to administer oaths.

28. All native headmen shall, within their local limits, be authorised and required to execute the process which may be duly sent to them for execution, and in the execution thereof they and such subordinate officers as they may employ shall be maintained and protected by law as the officers of such Fiscal, although not holding any written deputation or warrant from him, further than a copy, authenticated by the signature of such Fiscal or Deputy Fiscal, of the process which such headmen shall and may be required to serve or execute.

Native headmen to execute process.

29. Every return to process shall be made by the Fiscal or Deputy Fiscal or marshal, and shall be duly verified by the oath or affirmation of the officer employed to execute the same; and for such purpose the Fiscal, Deputy Fiscal, or marshal is hereby authorized to administer such oath or affirmation. Any person swearing or affirming falsely shall be guilty of perjury, and shall be liable to the punishment attaching to such offence: Provided that it shall be competent to any district or police court to take cognizance of such offence, and to award in respect thereof such punishment as the district or police court is legally empowered to award if the Queen's Advocate or some competent Deputy Queen's Advocate shall certify that he is content that such offence shall be prosecuted before such court.

Return to process should be verified.

30. The service or execution of process against person or property shall respectively be subject to the following rules:

Rules for execution of process.

(1.) Any person charged with a criminal offence, and any person who, having been once duly arrested on civil process, shall have escaped, or shall have been rescued,

Time of arrest in criminal case.

may be arrested at all times and on all days, whether by night or by day, and whether on Sunday or any other day.

Ditto in civil case.

(2.) Process in civil cases, whether at the suit of the Crown or individuals, shall not be served or executed between the period of sunset and sunrise; nor on a Sunday, Good Friday, or Christmas day; nor on any minister of religion while performing his functions in any place of public worship, nor upon any individual of any congregation during the performance of public worship at any such place.

When outer door may not be forced.

(3.) The outer door of any dwelling-house shall not be forced open in order to seize the person under civil process issued at the suit of a private individual, excepting such person shall have escaped, or shall have been rescued after having been duly arrested.

When it may.

(4.) Any door may be forced open in the execution of criminal process, or in civil process against person issued at the suit of the Crown, or in process against property, whether at the suit of the Crown or of private individuals:

Proviso.

Provided, however, that before any door of any dwelling-house be forced open, admittance shall first be demanded by the person employed to carry such process into effect, and if such admittance be not granted the Fiscal or his officer may force the door open.

Copy of process shall be served on defendant. If a native, a translation also.

(5.) In all cases in which process is issued for service and execution a copy of such process, or, if the party be a native, a translation thereof, in the native language prevailing within the district where the process is to be served or executed, shall be issued to the Fiscal by the court with the original process, and shall be served or executed personally; or if, after reasonable exertion, such personal service cannot be effected, such inability shall be reported to the court issuing the process, to which it shall be always competent, on cause shown, to prescribe any other mode of service as an equivalent for personal service, and the case shall thereupon proceed upon such substituted service as if personal service had taken place.

Court may authorize substituted service.

(6.) Every Fiscal, Deputy Fiscal, or marshal shall, on the receipt of any process, note thereon the day he received the same, and, on the service or execution thereof, the date and mode of such service or execution, and such return shall be duly verified by the oath or affirmation of the officer by whom the service or execution has been effected, and shall be duly dated and signed by such Fiscal, Deputy Fiscal, or marshal.

Person executing process must always have writ of execution or copy.

(7.) The person employed in carrying into effect any process of execution against either person or property shall always have with him the writ, warrant, or mandate of execution, or an authenticated copy of the same, which shall, if required, be produced and shown to the party

against whom, or against whose property, it is sought to be put in force.

(8.) In all civil cases where process of execution may issue against the person of a defendant, it shall be necessary, in order to constitute an arrest, that the body of the person to be arrested shall be actually seized or touched by the officer executing the process, unless such person express his acquiescence in the arrest without being so seized or touched.

Body of person arrested must be seized or touched.

(9.) After any person shall have been taken into the custody of any Fiscal or Deputy Fiscal under civil process, such person shall not be allowed by any Fiscal, Deputy Fiscal, or gaoler, on any pretence, to go beyond the walls or other enclosed limit of the prison in which such person may be confined, unless upon the special rule and order of court requiring the attendance of such person, or on the application of such person to be carried before any such court for the purpose of preferring any complaint or application, on pain that the Fiscal in whose custody such person may be shall be answerable to the party, at whose suit he shall have been confined, for the full amount for which he was in custody, if on a final judgment, or otherwise for such damages as the court may award thereon.

Person arrested to be confined in gaol.

(10.) It shall nevertheless be lawful for the Fiscal or Deputy Fiscal to permit, as well Christians as those professing any other religion, being prisoners for debt, to attend public worship at the church, temple, or mosque nearest to the prison, once in every fortnight between the hours of 9 in the morning and 2 o'clock, under a proper guard; and to permit all prisoners for debt to bathe at the nearest bathing place to the prison (in case only there shall be no sufficient means of bathing within the prison itself) once in every week, under a proper guard; but it shall not be lawful for the Fiscal, or any of his officers, to permit any prisoner either on going to or returning from the church, temple, or mosque, or place of bathing, to go to his own house, or any other house or place, on any pretence whatsoever; and the person in charge of such prisoner, in case he shall so permit him, shall be liable to punishment by fine or imprisonment at the discretion of the court.

Unless attending divine service or bathing.

VI.—*Arrest in Mesne Process.*

Arrest in mesne process.

31. In any case of arrest in mesne process for debt or damages, if the person against whom the writ has issued shall, by deposit of money or otherwise, give sufficient security to the Fiscal that he shall appear according to the exigency of the process, and answer to the plaintiff's libel, the Fiscal or his deputy may permit the defendant to go at large and free of the said arrest; and the bond or obligation to be given by the defendant to the Fiscal as

security as aforesaid shall be substantially in the form I. to the schedule hereto annexed.

VII.—*Execution against Property and Person.*

Fiscal to call upon debtor to pay writ, or to surrender property in satisfaction.

32. In every case of execution against property, the Fiscal or his deputy, or other officer, shall within forty-eight hours after delivery of the same, if the debtor shall be a person residing within five miles of the office of the Fiscal or Deputy Fiscal, or if residing beyond five miles, within an additional forty-eight hours for every five miles or part thereof, repair to his dwelling-house, and there require him, if present, to pay the amount of the writ, or to point out and surrender unclaimed property sufficient to satisfy the amount of the writ; and if the debtor be absent, or if he or any person on his behalf fail to do so forthwith, the party at whose suit the process is issued may point out to the Fiscal or his deputy the property of his debtor, and in default of such property being pointed out, or there being no property which the Fiscal could seize, the debtor may be arrested by process of execution against the person.

What property seizable in execution.

33. All property belonging to a debtor, moveable or immoveable, whether the same be held in his own name, or by another person in trust for him or on his behalf, and all debts due to him, are liable to seizure in execution: Provided, however, that no immoveable property shall be seized if sufficient unclaimed moveable property be surrendered to satisfy the exigency of the writ against such debtor: Provided further, that the Fiscal, Deputy Fiscal, marshal, or other officer shall not take or seize in execution any of the necessary tools, utensils, implements, or cattle used in trade or husbandry, or wearing apparel of any debtor, unless there shall not be sufficient other property to satisfy the same.

Salaries of public officers and pensions granted for services.

34. The salaries of public officers, and the pensions granted to them for services rendered, shall not be seized in execution without a special order of the court whence the execution issued. It shall be lawful to the court to order the seizure of a debtor's salary or pension, or part thereof, if it shall be proved to its satisfaction that there is no other property available to satisfy the writ, and that such seizure is proper, regard being had to all the circumstances of the case, to the amount of salary or pension, and the necessities of the officer and his family, and (in case of salary) the interest of the public in not being deprived of his services.

VIII.—*Mode of Seizure.*

Delivery of immoveable property.

35. If the judgment be for land in the occupancy of the party condemned, or some person on his behalf, or of some person claiming under a title created by such party subsequently to the institution of the suit, delivery thereof shall be made by putting the party to whom the land may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Fiscals.

36. If the judgment be for land in the occupancy of cultivators, tenants, or other persons entitled to occupy the same, delivery thereof shall be made by affixing a copy of the writ in some conspicuous place on the land, and proclaiming to the occupants of the property by beat of tom-tom, or in such other mode as may be customary, at some convenient places, the substance of the judgment in regard to the property.

If decree be for land in the occupancy of others.

37. Where the property shall consist of lands, the Fiscal shall, at the time of the seizure, affix an order prohibiting the party condemned from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Fiscal should prohibit alienation of property seized.

38. Where the property seized shall consist of goods, chattels, or other moveable property to which the party condemned is entitled, subject to a lien or right of some other person to the immediate possession thereof, the seizure shall be made subject to the lien, and the party claiming the lien shall be bound to give up such property, but shall not be deemed to have lost his lien by reason of the Fiscal, Deputy Fiscal, or other officer taking possession of the property.

When property seized is subject to a lien.

39. Where the property shall consist of debts not based on negotiable instruments, or of shares in any railway, banking, or other public company or corporation, the seizure shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, pending the seizure, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the manager, secretary, or other proper officer of the company or corporation from permitting any such transfer or making any such payment until such further order.

Seizure of debts or shares.

40. Where the property shall consist of money, or of any security, in deposit in any court of justice or in the hands of any officer of Government, which is or may become payable to the party condemned or on his behalf, the seizure shall be made by a notice to such court or officer, requesting that the money or security may be held subject to the order of the court by which the notice may be issued: Provided that, if such money or security is in deposit in any court of justice, any question of title or priority which may arise between the party at whose instance such seizure is made, and any other person, not being the party condemned, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the court in which such money or security is in deposit.

Where property is in deposit in court or with any Government officer.

41. In case of goods, chattels, or other moveable property not in the possession of the party condemned, the written order shall be affixed in some conspicuous part of the court house, and a copy of the order shall be delivered or sent by post to the person in possession of the property. In the case of lands, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be affixed in some

How the written order shall be fixed and served.

conspicuous part of the land and the court house. In the case of debts, the written order shall be affixed in some conspicuous part of the court house, and copies of the written order shall be delivered or sent by post to each individual debtor. And in the case of shares in the capital or joint stock of any railway, banking, or other public company or corporation, the written order shall in like manner be affixed in some conspicuous part of the court house, and a copy of the order shall be delivered or sent registered by post to the manager, secretary, or other proper officer of the company or corporation.

Alienation after seizure and notice void.

42. After any property shall have been duly seized in execution, and in the case of a seizure by written order after it shall have been duly intimated and made known in manner aforesaid, any alienation or incumbrance of the property seized (excepting by the Fiscal or Deputy Fiscal, or under their order, as herein-after provided), whether by sale, gift, mortgage, or otherwise, and any payment of the debt or debts, or dividends or shares, to the party condemned during the continuance of seizure shall be null and void.

Debtor receiving notice may pay amount in court.

43. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount to the Fiscal or Deputy Fiscal, and such payment shall have the same effect as payment to such creditor.

Proceeding to recover debts due to execution debtor.

44. When the person against whom execution is decreed is entitled to money due to him by some other party, it shall be lawful for the party in whose favour such execution is decreed to call on the person owing money to his debtor to show cause why he should not pay the money due by him into court. If he does not dispute the debt, he shall pay the same into court within such time as the court shall allow him, of which the court shall make record, and if he fails to do so, the court may issue execution against him without any further action or process. If he disputes the debt, the court shall refer the parties to another suit in the court having jurisdiction to entertain the same: Provided, however, that it shall be lawful for the first-mentioned court to inquire summarily into the nature of the debt due to the execution debtor, and (should it be one which would entitle such execution debtor to claim provisional judgment, and his debtor be not able to make thereto a defence which would, by law, apply to a claim for provisional judgment) to decree that the amount be deposited in such court to abide the result of the new suit. If no new suit be brought within the time prescribed by the court, the money deposited shall be made available to satisfy the writ against the execution debtor.

Property seized to be inventoried.

45. As soon as any property shall be seized by the Fiscal, Deputy Fiscal, or other officer, a list of such property shall forthwith be made and signed by himself or the person seizing the same, and shall be delivered to the person in whose possession the property seized shall be, or if no person be in possession, then to the headman or constable of the division, and copies thereof shall be also deposited in the Fiscal's office and annexed to the return to the writ.

46. Whenever property is seized or sequestered in parts of the country where there are no adequate means of securing the same therein, the Fiscal, Deputy Fiscal, or other officer, may either cause the same to be removed to some fit place of security, the expense of which removal shall be borne by the debtor in the first instance, and if not previously paid by him, shall be paid out of the first proceeds of the property seized or sequestered, or shall be recovered by process of parate execution at the suit of the Fiscal against any other property of the debtor; or the Fiscal, Deputy Fiscal, or other officer may require the owner or possessor of the property to take charge thereof until the time of sale, on giving security to his satisfaction that such owner or possessor will in the meantime safely and securely keep the same; and if such owner or possessor fail to give such security, the party suing out the writ may be required to take charge of the property, giving the like security to the satisfaction of the Fiscal, deputy, or other officer; and if the party at whose suit the writ has issued shall, on being thus required, fail to take charge of such property, or to give such security, the Fiscal, deputy, or other officer shall make a special return thereof to the court, and shall be no longer responsible for any injury, loss, or damage which may happen to such property.

Disposal of property seized until sale.

IX.—*Sale of Property seized in Execution.*

47. The property being duly seized, the Fiscal or his deputy shall proceed to the sale thereof in manner following:

Sale of property seized in execution.

(1.) In all cases of seizure of moveable property the Fiscal or Deputy Fiscal shall cause the usual notice of sale thereof to be given by beat of tom-tom, or in such other manner as to secure publicity thereto, both at the place of sale and also where the seizure shall have been made, and such notice shall not be less than three days and not exceeding fourteen days before the day of sale, unless the time be enlarged by any order of court, and shall specify the property to be sold, in what suit, at what place, and at what day and hour.

(2.) In all cases of a seizure of immoveable property, the like notice of sale shall be given as is herein-before required in sales of moveable property, and the Fiscal, Deputy Fiscal, or other officer shall also cause to be made four copies of notice of sale both in English and in the native language prevailing within the district, one of which he shall cause to be posted at his office, the other at the court house whence the execution issued, the third on some conspicuous part of the town or village in which the land is situate, and the fourth on some conspicuous spot on the property for sale, each of which publications shall be made ten days at the least before such sale takes place.

(3.) Whenever the property seized under one writ shall exceed the value of one hundred pounds sterling, the Fiscal,

Deputy Fiscal, or other officer shall, in addition to the notice herein-before required, advertise the sale thereof, enumerating briefly the goods for sale, the nature and situation of the land, and the time and place of the sale, in the "Government Gazette;" and no such sale shall take place until it shall have been so advertised once at the least twenty days prior to the sale. It shall be lawful to the execution creditor and debtor to require the publication of such sale to be made in any other newspaper to be named by them, or if they cannot agree in doing so, in any two newspapers, one to be named by each; and all costs and charges attending such advertisements, particulars of which shall be always given by the Fiscal with his return, shall be deducted out of the first proceeds of sale:

(4.) The Fiscal, Deputy Fiscal, or other officer shall be also at liberty, at the request of both or either party, on payment to him by the applicant of all costs or expenses attending the publication, to advertise any sale of moveable or immoveable property in manner herein-before mentioned, although it does not exceed the value of one hundred pounds sterling.

Sale of property seized how to be held.

48. Every sale shall be held by an officer of the Fiscal, or some other person duly authorized by the Fiscal or Deputy Fiscal, by writing under his hand. The Fiscal or Deputy Fiscal shall charge a fee of three per cent. on the proceeds actually recovered and return thereof made to the court in respect of every sale and resale of moveable property, and two per cent. on the proceeds of sale of immoveable property belonging to the debtor when the proceeds do not exceed the sum of seven hundred and fifty pounds sterling. When the proceeds exceed that sum, the Fiscal or Deputy Fiscal shall charge a fee of fifteen pounds sterling, and of ten shillings for every hundred pounds of the proceeds over and above the said sum of seven hundred and fifty pounds. And in every case after the seizure of property and publication of sale thereof, in which the sale shall be postponed or stayed at the request or with the concurrence of the party suing out the writ, the Fiscal or Deputy Fiscal shall charge half of the above fees on the estimated value of such property from the party at whose request the writ shall be stayed, and in default of immediate payment thereof such fees may be recovered by process of parate execution at the suit of the Fiscal: Provided, however, that such fee shall never exceed five pounds sterling. The fees charged under this section shall be appropriated in such manner as the Governor, with the advice of the Executive Council, shall from time to time direct.

Purchase money when payable.

49. The sale of all moveable property shall be for ready money only; and the sale of immoveable property, of which the value does not exceed ten pounds sterling, shall be also for ready money; but when any immoveable property sold in one lot amounts to more than ten pounds sterling, a deposit of one fourth of the amount of sale shall be made, and the purchaser shall at the same

time give sufficient security to the satisfaction of the Fiscal or his deputy for the payment of the residue thereof, with interest thereon at the rate of nine per centum per annum from the date of sale, within the time and in the manner hereunder specified. If the purchase money exceeds ten pounds but does not exceed fifty pounds, within one month from the date of sale; if it exceeds fifty pounds and does not exceed two hundred pounds, within two months from such date; if it exceeds two hundred pounds and does not exceed five hundred pounds, within three months from such date; if it exceeds five hundred pounds and does not exceed one thousand pounds, in two equal instalments within three and six months from such date; if it exceeds one thousand pounds, in three equal instalments within three, six, and nine months from such date; and the purchaser and his sureties, if any, shall thereupon sign the conditions of sale, which conditions shall be binding on such purchaser although the same be not executed before a notary public. In case of nonpayment of the balance when due, the whole property may, after twenty days' notice from the Fiscal or his deputy, be re-entered on and sold anew at the risk of the purchaser.

Purchaser to give security.

50. If at the sale of immoveable property the highest bidder on being declared the purchaser shall not forthwith pay down the amount of deposit required, and give good and sufficient security to the satisfaction of the Fiscal, Deputy Fiscal, or other officer for the payment of the residue, the next highest bidder may be thereupon declared the purchaser and required to make like deposit and security as aforesaid, and in the same manner the other bidders in rotation; and each person failing to make such deposit and to give security as aforesaid may be held liable to pay the difference between the amount of his offer and the sum finally settled at the sale, to be levied on nonpayment within one week after demand made in writing by process of parate execution on the plaint of the Fiscal to the court whence the execution issued, which plaint the Fiscal is hereby required in all cases to make forthwith, supported by the affirmation of the Fiscal, Deputy Fiscal, or other officer who conducted the sale, and process of parate execution shall then forthwith issue.

In case of default.

Default in payment.

51. If the purchaser of any immoveable property shall not make complete payment of the amount due according to the conditions of sale and the security given, and on a second sale taking place (publication whereof shall always be made in manner herein-before prescribed for the first sale) the amount of the purchase shall fall short of the amount for which the first sale was concluded, parate execution shall on the plaint of the Fiscal (which plaint the Fiscal is hereby required in all cases to make forthwith, supported by the affirmation of himself or the Deputy Fiscal, or other officer who conducted the sale, as to the circumstances) issue against the property and person of the first purchaser and his sureties, if any, to recover the difference between the amount of the second and first sale; and the like course shall be observed in respect of any subsequent sale, rendered necessary by failure in payment of the purchase amount. The amount recovered in respect of any differ-

ence between the biddings or between the amounts of any two sales shall be applied in satisfaction of the writ, and the balance, if any, after such application shall be paid to the execution debtor or credited to his account. If there be no difference between the first and second sale, the one fourth deposited at the time of the first sale shall be declared forfeited, and shall be paid to the benefit of the fund created by section 15.

Sale on the spot.

52. In all cases the sale of immoveable property shall be conducted on the spot unless the court shall otherwise direct, or unless on application in writing to the Fiscal or his deputy the parties shall consent to its being conducted elsewhere.

Sales to be reported to the court.

53. The Fiscal or Deputy Fiscal shall report every sale of immoveable property made by him or under his directions within a week after the same shall have been so made ; and it shall be open to the debtor or any other party impeaching such sale on the ground of irregularity or informality, or to the Fiscal or Deputy Fiscal, if any such ground shall be made apparent to him within thirty days of the sale, to state or report to the court his objections to the sale being confirmed ; and the court, having inquired into the same summarily, shall either confirm or disallow the sale as to it shall appear just and reasonable, but no sale shall be disallowed unless a material irregularity in publishing or conducting the sale shall be shown, and that the applicant has sustained substantial injury by reason of such irregularity. The Fiscal or his Deputy shall either grant the conveyance or withhold the same for a time or absolutely, according to the directions which the court shall give him.

Sale not to be held bad for irregularity if not objected to within 30 days.

54. No sale shall be held bad on the ground of irregularity or informality the objections to which shall not be made within thirty days, as prescribed by the preceding section.

If sale shall not have been confirmed, monies paid by purchaser shall be returned to him.

55. If the sale shall not have been confirmed the Fiscal, or if the amount shall have been paid to the Government Agent or Assistant Government Agent in pursuance of any rule or direction under section 66, such Government Agent or Assistant Government Agent shall, upon order of court to that effect, return to the purchaser all monies paid by him on account of such sale, and the holder of the writ shall proceed to enforce the same as if no such sale had taken place.

Conveyance to purchaser.

56. If the court shall not have disallowed the sale, and purchaser shall have paid the full amount of the purchase money according to the conditions of sale, and shall have supplied the Fiscal or Deputy Fiscal with stamped paper of the proper amount required by law for the conveyance of the land sold to him (which stamped paper he shall be bound to supply when he pays the purchase money in full), the Fiscal or Deputy Fiscal shall make out and execute a conveyance of the property according to the form hereunto annexed and marked J. in duplicate, and which conveyance shall be binding and of force though not executed before a notary public. The Fiscal or Deputy Fiscal shall deliver the original to the purchaser, and transmit the duplicate to the registrar of lands for the district in which the land is situate in like manner as now is or shall be required to be done by notaries

in respect of deeds executed before them; and the Fiscal or Deputy Fiscal shall be entitled to charge for such conveyance, when the amount of purchase shall be under three pounds, a fee of one shilling; when it shall exceed three pounds, a fee of two shillings; when it shall exceed ten pounds, a fee of three shillings; when it shall exceed twenty pounds, a fee of five shillings; and when it shall exceed fifty pounds, a fee of seven shillings and sixpence, and no more; and such fee shall be appropriated in such manner as the Governor shall direct.

Map to be annexed to conveyance.

57. A diagram or map of the premises, where there is none already appended to the deeds of the property, shall be made and annexed to the deed of conveyance by the Fiscal, and the purchaser shall pay in advance the whole expenses thereof in addition to the fee allowed for the conveyance.

If execution creditor be purchaser.

58. In case the party in whose favour the execution is issued become the purchaser of any of the property sold, the amount of purchase shall be allowed in reduction of his claim, and in case it shall exceed his claim he shall only be required to pay the residue unless it shall be otherwise directed by the court. No conveyance, however, of the property in any such case shall be made to such purchaser but under express order of the court, and the Fiscal, Deputy Fiscal, or other officer shall be equally entitled to charge the fee upon the sale as if the amount so allowed were actually paid into court.

IX.—*Service of Warrant or Writ in a different District.*

Execution of warrant or writ in a different district not within the jurisdiction of the court.

59. A warrant of arrest in mesne process, or a writ of sequestration or of execution which cannot be executed within the jurisdiction of the court issuing it, may be executed within the jurisdiction of any other court in the manner following:

(1.) The party holding such warrant or writ may apply to the court issuing the same to transmit a copy thereof, together with its endorsement thereon signed by the judge or commissioner of the court to which such application is made, to the effect that the same cannot be executed within the jurisdiction of such court, to the court by which the applicant may wish the said process to be executed.

(2.) The court, unless there be any sufficient reason to the contrary, shall cause such copy so endorsed to be transmitted to the court indicated by the applicant; and such last-named court shall also endorse the same, and such copy of warrant or writ so endorsed shall have the same effect as a warrant or writ made by such court, and may be executed accordingly by the Fiscal or Deputy Fiscal of the district over which such court shall have jurisdiction.

(3.) The court causing such warrant or writ to be executed shall have no power to inquire into the validity of such warrant or writ, unless it appear upon the face thereof that the court by which it was issued had no jurisdiction to issue the same. But such first-named court shall take

cognizance of and punish all wrongful acts or irregularities done or committed in executing such warrant or writ; and all persons disobeying or obstructing the execution thereof shall be punishable by such court in the same manner as if the process had been issued by such court.

(4.) The court to which the application is made may, upon good and sufficient cause being shown, stay the execution of a warrant or writ for a reasonable time, to enable the party against whom such warrant or writ issued to apply to the court by which the same was issued for an order to stay the warrant or writ, or for any other order relating thereto which it may be competent for such court to make; and in case the property or person of such party shall have been seized in execution, the court to which such application is made may, upon such terms and conditions as to security or otherwise as it may consider reasonable, order the restitution of the property or the discharge of the person, pending the result of such application.

(5.) No discharge of a defendant under the provisions of the preceding article shall prevent him from being retaken in execution.

XI.—*Claims to Property seized.*

Claim to property seized and investigation thereon.

60. In the event of any claim being preferred to or objection offered against the seizure or sale of any immoveable or moveable property which may have been seized in execution of a sentence, or under any order passed before sentence, as not liable to be sold, the Fiscal or Deputy Fiscal shall, as soon as the same is reported to him, proceed to investigate the same summarily, and for this purpose the Fiscal and Deputy Fiscal shall have power to examine parties and their witnesses on oath, and to enforce their attendance as well as the production of documents. If it shall appear to the satisfaction of the Fiscal or Deputy Fiscal that such immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or the occupancy of cultivators or other persons paying rent or performing service to him at the time when the property was seized, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Fiscal or Deputy Fiscal shall abstain from carrying out the seizure or sale; but if it shall appear to the satisfaction of the Fiscal that the said property was in possession of the party against whom execution is sought as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of cultivators or other persons paying rent or performing service to him at the time when the property was seized, he shall disallow the claim and carry out the seizure or sale: Provided, however, that it shall be lawful for the Fiscal, before abstaining from

carrying out such seizure or sale, or before carrying out such seizure or sale, to call upon the claimant in the first case, or upon the party holding the writ in the second case, to give security to indemnify the Fiscal, and hold him harmless from any loss or damage which might arise from his not enforcing the writ, or enforcing the same, as the case may be. In case the party so called upon fail to give such security, it shall be competent to the Fiscal to abstain from carrying out the sale, or to carry the same out, as he shall consider just.

Party may apply for injunction nevertheless.

61. Nothing in the preceding section contained shall be construed to deprive any party of his right to apply to a competent court for a writ of injunction to stop the seizure or sale of property, or to bring his action to establish his right to such property notwithstanding the sale ; but it shall not be lawful for the court to grant a writ of injunction to stop the sale unless it shall be satisfied that such party made his application to the Fiscal in the first instance to stop such sale, and unless such party shall give sufficient security to answer for any loss or damage which may arise from the issue of such writ of injunction.

Claim must be made at the earliest opportunity.

62. The claim or objection shall be made at the earliest opportunity, and if the property to which the claim or objection applies shall have been advertised for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in section 60: Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice.

If claim be declared groundless.

63. Whenever it shall appear to the court, and be so found and declared in any judgment pronounced by it in any suit instituted by or against any person claiming any property pointed out, or seized in execution, that such claim is altogether groundless, and wilfully preferred only to defeat or delay the execution, every such claimant shall, in addition to his liability to pay costs and damages, be liable to fine at the discretion of the court, and such fine shall be recovered as a fine imposed by a court in a criminal case.

XII.—*Resistance or Obstruction to a Sentence.*

Resistance or obstruction to a decree.

64. If in the execution of a decree for land, the Fiscal or his officer shall be resisted or obstructed by the defendant, or any person at his instigation, the person in whose favour such decree was made, or the Fiscal, may apply to the court to inquire into the same; the court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Proceeding of court thereupon.

65. If the court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause, and made or induced by the defendant, or some person at his instigation, the court may commit the defendant or such other person to prison

for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

XIII.—*Payments to Fiscals and by Fiscals' Officers.*

Rules for payments to Fiscals, and by Fiscals' officers.

66. Payments to Fiscals, and by Fiscals' officers, shall be made in manner and subject to the rules following, and not otherwise :

(1.) Whenever any person, whether the original debtor or a purchaser of property sold in execution, shall have occasion to pay money to the Fiscal or Deputy Fiscal, he shall signify the same to such Fiscal or Deputy Fiscal, who shall give him a note addressed to the Government Agent or Assistant Government Agent of the form in Schedule K. hereto annexed, which the person who is to pay the money shall carry to such Government Agent or Assistant Government Agent's office, and deliver to the shroff or receiver of the office, and pay to him the amount stated in such note.

(2.) The receipt shall then be acknowledged by the signature of the Government Agent or Assistant Government Agent on that part of the note reserved for that purpose, which shall be cut off, and delivered to the person who shall have made the payment, the remaining part being reserved as the authority for receiving the money.

(3.) In cases of payment of ready money, or a partial payment for immoveable property, the Fiscal or Deputy Fiscal shall give a receipt accordingly on stamped paper to be furnished by the purchaser.

(4.) The Fiscal's officers shall make payment of all deposits and ready money received by them, within such time after the sale as the Fiscal shall prescribe, to the office of the Government Agent or Assistant Government Agent, being furnished for that purpose with a note of the said form, in Schedule K.

(5.) A register of such notes in the form in Schedule L. hereto annexed shall be kept by the Fiscal, liable to the call of Government at any period.

Monies paid in to be subject to order of court.

67. All monies which may be paid into any Government Agent or Assistant Government Agent's office shall be retained until disposed of by order of the court whence the process of execution shall have issued : Provided always, that nothing herein contained shall be construed to affect the powers vested in the Loan Board by law.

XIV.—*Allowance to Prisoners.*

The person detaining shall pay for the maintenance of prisoners.

68. The party at whose suit any person shall be detained in prison, whether in mesne process or in execution, shall make an allowance in money for the maintenance of the person detained, at rates to be fixed by order of the Government from time to time as

occasion shall require, and such allowance shall be paid to the Fiscal one month in advance; and in case such allowance be not so paid to the Fiscal, the court on application of the Fiscal (which he is hereby required to make without delay), or of the person so detained, shall forthwith discharge any such person, who shall in the meantime, and until so discharged, be supported by Government.

Defendant's property liable to such maintenance.

69. The amount of the allowances paid for the maintenance of any person shall be added to the amount of the writ, and shall be recoverable against his property on the plaint and affirmation of the person detaining; but the said person shall not be detained in custody or arrested on account of such amount.

Allowance to criminal prisoners.

70. The rates of allowance in money or provisions to be made by Fiscals or Deputy Fiscal for the maintenance of prisoners committed under criminal process, shall in like manner be fixed by order of the Government from time to time as occasion shall require.

Table of allowances to be affixed in gaols.

71. Every Fiscal or Deputy Fiscal shall, within three days from receiving any order fixing or varying the rates of gaol allowance, cause to be affixed in a conspicuous part of the gaol a copy thereof, attested by him, together with a translation thereof in the Singhalese and Tamil languages.

XV.—*Delivery of Possession to Purchaser.*

When moveable property, it shall be delivered over.

72. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the party condemned, or to the immediate possession of which such party is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

When properly subject to lien.

73. Where the property sold shall consist of goods, chattels, or other moveable property to which the party condemned is entitled, subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall, as far as practicable, be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

If immoveable property in possession of defendant, or of others under title created after the seizure.

74. If the property sold shall consist of land in the occupancy of a party condemned, or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the seizure of such property, the court shall order delivery thereof to be made by putting the party to whom the land may have been sold, or any person whom he may appoint to receive on his behalf, in possession thereof, and, if need be, by removing any such person who may refuse to vacate the same.

If property in occupancy of cultivators, tenants, or others entitled to keep such occupancy.

75. If the property sold shall consist of land in the occupancy of cultivators, tenants, or other persons entitled to occupy the same, the court shall order delivery thereof to be made by affixing a copy of the notice of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of tom-tom, or in such other mode as may be customary, and likely to secure publicity, at some convenient

place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Where property consists of debts not negotiable, or of shares of railway, banking, or other public company.

76. Where the property sold shall consist of debts not being negotiable instruments, or of shares in any railway, banking, or other public company or corporation, the delivery thereof shall be by a certificate of sale in favour of the purchaser, and an order of the court prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares, or receiving payment of any dividends thereon, and the manager, secretary, or other proper officer of the company or corporation from permitting any transfer or making any such payment to any person except the purchaser.

Where property sold consists of negotiable securities.

77. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

If endorsement or conveyance be wanted of party in whose name any negotiable security or share shall be standing.

78. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public company or corporation is standing, shall be required to transfer the same, the judge may endorse the security or the certificate of the share, or may execute such other documents as may be necessary for transferring the same. The endorsement or execution shall be in the following form, or to the like effect:—"*A.B.* by *C.D.* judge "of the court of (*or as the case may be*); in a suit by *E.F.* "versus *A.B.*" Until the transfer of such security or share the judge may, by order, appoint some person to receive any interest or dividend, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

If purchaser of immoveable property be resisted in obtaining possession.

79. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in the twelfth division of this Ordinance, headed "Resistance or obstruction to a sentence," relating to resistance or obstruction to a party in whose favour a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

XVI.—*Miscellaneous.*

Orders subject to appeal.

80. All orders made by a court under the provisions of this Ordinance shall be subject to appeal.

Governor may allow Fiscal's security to be made available to meet claims on Fiscal.

81. It shall be lawful for the Governor to allow the security given by a Fiscal, or any part thereof, to be made available for the payment of any sum which such Fiscal shall be condemned to pay to any party in an action brought under the provisions of this Ordinance, by an endorsement on a copy of the bond given by the Fiscal and his sureties of the nature of the entry M. in the schedule hereto annexed, which said endorsement, though not on stamped paper, shall be sufficient to convey to the person

in whose favour such endorsement is made the right to sue on such bond, and to derive all benefit and advantage arising therefrom, to the extent to which such security is allowed to be made available.

82. It shall be lawful for the Fiscal to allow the security given by a Deputy Fiscal or other officer, or any part thereof, to be made available for the payment of any sum which any party may recover in an action brought by him against such Deputy Fiscal or other officer as an immediate wrong-doer under the proviso of section 20, by an endorsement made on a copy of the bond given by such Deputy Fiscal or other officer, and his sureties, of the nature of the entry N. in the schedule hereto annexed; which said endorsement, though not on stamped paper, shall be sufficient to convey to the person in whose favour such endorsement is made the right to sue on such bond, and to derive all benefit and advantage arising therefrom, to the extent to which such security is allowed to be made available.

Fiscal may allow security given by Deputy Fiscal to be also so made available.

83. Whenever the Fiscal or Deputy Fiscal shall have received security by way of indemnity, it shall be lawful for him to endorse the same to the party seeking to enforce the same, or to take action thereunder, by an endorsement on a copy of the bond giving security, of the nature of the entry O. in the schedule hereto annexed; which said entry, though not on stamped paper, shall be sufficient to convey to the person in whose favour the endorsement is made the right to sue on such bond, and to derive all benefit and advantage arising therefrom.

Transfer of indemnity bond.

84. If any question should hereafter arise relating to the matters which form the subject of this enactment, and not herein expressly provided for, the same shall be determined according to the rules of the Roman Dutch law.

Cases omitted to be determined according to the Roman Dutch law.

SCHEDULE

A.

(§ 3.)

Ordinance No. 1 of 1839.—To amend the law relative to Fiscals and their officers.

Ordinance No. 11 of 1847.—For giving legal effect and validity to transfers of immoveable property executed by Deputy Fiscals under writs of execution directed to Fiscals in this Island.

Rules of Court, July 11, 1840.—General rules respecting the duties of Fiscals and touching arrest in mesne process and in execution.

B.

(§ 6.)

I Fiscal for the province do hereby nominate and depute to be my deputy in the said office of Fiscal for the district of during my pleasure This day of 186

Fiscal.

C.

(§ 7.)

Know all men by these presents that we (*name Fiscal*) and (*name securities*) are respectively held and firmly bound to our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, her heirs and successors, in the sum of £ lawful money of Great Britain; for which payment to be well and faithfully made we the said do hereby bind ourselves, jointly and severally, and our heirs, executors, and administrators, and every of them, firmly by these presents.

Whereas the above bounden has been appointed Fiscal for the province, and has been required to give security by bond for the due and faithful execution of the duties of his office in the sum of £ and the said (*name securities*) have agreed to bind themselves respectively as his said securities: Now the condition of this obligation is such, that if the said shall, at all times hereafter during the continuance of his said office of Fiscal for the province, duly and faithfully perform and execute the duties of his said office as the same are prescribed by law, and shall faithfully obey all the directions given him in regard to such office of Fiscal by Her Majesty's Secretary of State for the Colonies, the Lords Commissioners of Her Majesty's Treasury, and the Governor of the said Island, or other person authorised to give orders, and shall and will faithfully pay and apply all sums of money, bills, notes, and securities for money that shall come to his hands, or with which he shall become justly chargeable as such Fiscal, and shall produce at all times when required true and correct accounts of the receipt and payment of all such sums of money, bills, notes, and securities for money as shall come to his hands as such Fiscal, together with proper and sufficient vouchers for the due application hereof, and do and shall, at the expiration or other determination of his said office of Fiscal, deliver up to the person duly authorised to receive the same all books, papers, documents, and writings relative to the said office of Fiscal, and do and shall pay to the persons duly authorised to receive the same the balance, if any, due from him as such

Fiscal, then this obligation shall be void, otherwise it shall remain in full force and virtue.

Signed and delivered by the above bounden in the presence of

A.B. (*Fiscal.*)
C.D. } (*Securities.*)
E.F. }

D.

(§§ 7 and 10.)

Bond by Deputy Fiscal as above, *mutatis mutandis*, but given to the Fiscal of the province and his successors for the time being.

Bond by Marshal as above, *mutatis mutandis*, but given to the Fiscal of the province or the Deputy Fiscal for the district and their successors for the time being.

E.

(§ 8.)

I Fiscal for the province, do hereby license to act as process server for the district of

This day of *A.B.* (*Fiscal.*)

F.

(§ 9.)

I Fiscal for the province, do hereby appoint to be Marshal for the division of (*here describe same accurately*) under the provisions of the Fiscals Ordinance, 1867, and authorise him to perform the duties and exercise the authority of Marshal, for which this shall be his warrant.

This day of 18 *A.B.* (*Fiscal.*)

G.

(§ 14.)

The maximum fees and charges to be levied for each process issued for execution or service on each suitor, witness, or other person, in any case other than criminal, by any of the courts of this Island, shall be as follows:

	£	s.	d.
Where the amount involved in a civil suit or the value of the estate in a testamentary or other case is - - under £2	0	0	4
Where such amount is £2 but under 5	0	0	6
" " 5 " 10	0	0	8
" " 10 " 30	0	1	0
" " 30 " 75	0	1	6
" " 75 " 150	0	2	0
" " 150 " 500	0	2	6
" " 500 " 1,000	0	3	6
" " 1,000 " 5,000	0	4	0
" " 5,000 or more	0	7	6

Fiscals.

H.

(§ 16, Article 1.)

FISCALS STAMP.

Court.	Number of case.	Amount involved or value of estate.	Number and nature of process.	When returnable.	Forwarded	Received.
D. C or C. R.					*Date. Secretary or Clerk*	*Date. Fiscal or Deputy Fiscal.*

This day of 186

I.

(§ 31.)

Plaintiff
v. } In the District Court of
Defendant

Know all men by these presents that we (*name principal*) and (*name sureties*) are held and firmly bound to (*describe Fiscal or Deputy Fiscal*) or to the Fiscal or Deputy Fiscal of for the time being, or his assigns, in the sum of £ for the payment of which we bind ourselves, jointly and severally, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that if the above bounden (*principal*) do appear before the said district court on the day of and answer to a suit for then this obligation to be void, otherwise to remain in full force.

Signed and delivered this day of in the presence of

J.

(§ 56.)

Whereas by virtue of a writ of execution issued from the Court of bearing date the day of 18 , directed to the Fiscal (*or* Deputy Fiscal, *as the case may be*) of the province, whereby he was directed (*here insert the directions of the writ*) *A.B.*, Esq., Fiscal (*or* Deputy Fiscal) of the said province did cause to be seized and taken the property herein-after described, which after due notice was exposed to public sale on the at by acting under the authority of the said Fiscal

(*or* Deputy Fiscal) and sold to as the highest bidder at the said sale for the sum of

And whereas the said (*purchaser*) hath duly paid to the said Fiscal (*or* Deputy Fiscal) the whole of the said purchase money, and thus become entitled to all the right, title, and interest of the said *C.D.* in the said property.

Or (*if the plaintiff shall be the purchaser*),

And whereas the said hath been allowed the amount of purchase (*or part thereof, as the case may be*) in reduction of his claim, and has produced to the order of court copy whereof is hereunto annexed, and has thus become entitled to all the right, title, and interest of the said *C.D.* in the said property.

Now these presents witness that the Fiscal of the province (*or* Deputy Fiscal of the district of), in consideration of the said sum of so paid by (*or* credited to) the said (*purchaser*) as aforesaid, the receipt whereof the said Fiscal (*or* Deputy Fiscal) doth hereby acknowledge, hath sold and assigned, and by these presents doth sell and assign, unto the said (*purchaser*) his heirs, executors, administrators, and assigns, all the right, title, and interest of the said *C.D.* in the said property, to wit:

and bounded or reputed to be bounded,

on the by
on the by
on the by
and on the by
containing
and described in the diagram or map annexed to the

To have and to hold the said premises with their and every of their appurtenances to him the said (*purchaser*), his heirs, executors, administrators, and assigns for ever.

In witness whereof the said Fiscal (*or* Deputy Fiscal) hath hereunto subscribed his name at this day of in the year of our Lord one thousand eight hundred and

(*Signature of Fiscal or Deputy Fiscal.*)

Witnesses *G.H.*, of
J.K., of

K.

(§ 66.)

No. of note	No. of note
No. of suit	No. of suit
Name of payee	To the Government Agent of
£	Please to receive
Date of payment	from
Sig. of cutcherry	£
received.	Fiscal's office.

Fiscals.

L.

(§ 66.)

No.	No. of suit.	District court.	Pltff.	Defdt.	Payer.	On what account.	Amount.	Date of issue.	Date when receipt sent back.

M.

(§ 81.)

I Colonial Secretary of the Island of Ceylon, do hereby assign to the right to sue on this bond, and all the benefit and advantage arising therefrom, to the extent of £

This day of 186

By order of the Governor.

C.D.

Colonial Secretary.

N.

(§ 82.)

I Fiscal for the province, do hereby assign to the right to sue on this bond, and all the benefit and advantage arising therefrom, to the extent of £

This day of

E.F.

Fiscal.

O.

(§ 83.)

I the Fiscal (*or* Deputy Fiscal) for the , at the request of *A.B.*, the (Plaintiff *or* Defendant) within named, hereby assign to him, the said *A.B.*, the within bond, and all the benefit and advantage arising therefrom.

This day of A.D.

A.B.

Fiscal *or* Deputy Fiscal.

12th January 1867.

185.

No. 5 OF 1867.

An Ordinance relating to the Assessment of Lands for the maintenance of the Police Force.

WHEREAS it is expedient to give to parties dissatisfied with the assessment of the annual value of land for the purposes of creating a fund for the maintenance of the police force the right to object to and appeal against the same: It is hereby enacted as follows: **Preamble.**

1. If any person shall be aggrieved by the assessment or non-assessment of any house, building, land, or tenement, it shall be lawful for him to object to such assessment or such non-assessment before the court of requests having jurisdiction in the place where such house, building, land, or tenement is situate, if the amount of the rate on the annual value of such house, building, land, or tenement does not exceed ten pounds, and to the district court if such amount exceeds ten pounds; and such court shall decide upon such objection in a summary way, and have power to amend the assessment or to supply any omission if necessary, and its decision shall be subject to appeal to the Supreme Court, which shall have like power of amendment, and each of the said courts shall have power to give costs: Provided that no such objection shall be entertained by any court of requests, or district court, unless the same shall be made, if by private parties, within fifteen days, and if by the Government, within one month, after the service of notice of assessment prescribed by section 40 of "The Police Ordinance, 1865," or by section 63 of "The Municipal Councils Ordinance, 1865," nor unless the person objecting, or some person authorised by him in that behalf in writing, shall at the time of making such objection satisfy the court, by affidavit or otherwise, that he has furnished a statement in writing of the specific grounds on which such objection is founded to the Government Agent in any town where there is no municipality, or to the chairman of the council where a municipality has been established, and to the person, if any, to the under-rating or omission of whose property he objects. **Remedy of parties dissatisfied with the assessment.** **Appeal.**

2. Neither the objection nor the appeal shall stay the levying of any part of the rate which may be proceeded with; the excess (if any) collected shall in such case be refunded, or the deficient amount (if any) shall be collected, according to the decision of such courts of requests or district court, if there be no appeal, or of the Supreme Court in case of appeal. **Levying of rate not to be stayed.**

3. The judges of the Supreme Court may from time to time, and subject to the provisions of the Ordinance No. 8 of 1846, or any other Ordinance to be in that behalf hereafter enacted, make rules and orders as to the notices and the hearing of objections and appeals: Provided that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance. **Judges of Supreme Court to make rules.**

16th January 1867.

186.

No. 6 OF 1867.

An Ordinance for compiling a new Edition of the Enactments in force in this Colony.

Preamble.

WHEREAS it is expedient that measures should be adopted for preparing a new edition of the proclamations, regulations, and Ordinances of this Colony, and of the charters affecting the administration of justice therein, omitting therefrom all proclamations, regulations, ordinances, and charters, or parts of proclamations, regulations, ordinances, and charters, as have expired by effluxion of time, have had their effect, or have been expressly and specifically repealed or disallowed : It is enacted as follows :

Authority to Governor to appoint commissioners to compile and print the laws of Ceylon.

1. It shall be lawful for the Governor to issue his commission to two persons constituting them commissioners for preparing a new edition of such proclamations, regulations, ordinances, and charters, and from time to time, in case of the death, refusal, or incapacity to act of either of the said commissioners, to appoint some other person to act in the stead of such commissioner.

Commissioners to prepare and arrange laws for publication, and to omit all expired, repealed proclamations, &c.

2. The commissioners are hereby fully authorised and empowered to prepare and arrange for publication the said edition, omitting all such proclamations, regulations, ordinances, and charters, clauses and parts thereof, as have expired, been repealed, or had their effect ; and in the said edition the commissioners are hereby authorised to omit mere formal and introductory words, and all clauses repealing proclamations, regulations, ordinances, and charters, or parts thereof, as well as the proclamations, regulations, ordinances, and charters, and parts thereof, repealed, and the schedules of all repealed proclamations, regulations, ordinances, and charters.

Commissioners to procure estimates of expense of printing copies, and of correcting proofs, &c.

3. The commissioners shall procure from competent parties here or elsewhere estimates of the expenses of printing and publishing one thousand copies of such edition, and shall submit the same for the consideration and approval of the Governor ; and such edition, when arranged and prepared for publication, shall be transmitted by the said commissioners to such parties as the Governor may appoint to print the same ; and the said commissioners shall make such arrangements for correcting the proof and otherwise securing the correctness and accuracy of the publication as may to them appear desirable.

Every copy to be stamped with the seal of the Colony.

4. Every copy of the said edition shall be stamped with the seal of this Colony, and the copies so stamped shall, in all courts and upon all occasions whatsoever, be taken, deemed, and held to be the only lawful proclamations, regulations, ordinances of Ceylon, and charters in force therein, from the date of the first and up to the date of the last enactment inserted therein : Provided always, that nothing in this Ordinance contained shall apply to any operation already affected by or act done under any pro-

Proviso.

clamation, regulation, ordinance, and charter omitted in the said copies, or to any right, title, obligation, or liability acquired or accrued under any such proclamation, regulation, ordinance, or charter.

Copies to be delivered to members of Council and other public functionaries. Remaining copies lodged with the Colonial Secretary for sale.

5. The said commissioners shall after the printing of the copies aforesaid, and as soon as the same shall have been duly stamped, cause copies to be delivered to the members of the Executive and Legislative Councils, and to such other of the public functionaries as the Governor may direct, and the remaining copies shall be placed in the office of the Colonial Secretary to be disposed of at such price as shall be fixed by the commissioners, and the proceeds thereof paid into the public treasury.

Remuneration to secretary, and expenses for carrying Ordinance into operation.

6. It shall be lawful for the Governor to issue his warrant upon the treasury for such sum as he shall deem a reasonable remuneration for the secretary to be employed by the said commissioners, and also for such other charges and expenses as shall have been necessarily incurred, laid out, and expended in and about the carrying into effect the provisions of this Ordinance.

16th October 1867.

187.

No. 7 of 1867.

An Ordinance for the more effectual Protection of Her Majesty's Naval and Victualling Stores in this Island.

Preamble.

Whereas it is necessary to make provision for the more effectual protection of Her Majesty's naval and victualling stores in this Island: It is therefore enacted as follows:

Marks in schedule appropriated for Her Majesty's naval and victualling stores. Imitation an offence.

1. The marks described in the schedule to this Ordinance may be applied by the officers of the Admiralty, their contractors and workmen, in or on Her Majesty's naval and victualling stores to denote Her Majesty's property in stores so marked. If any person without lawful authority (proof of which authority shall lie on the party accused) applies any of the said marks in or on any such stores, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

Obliteration with intent to conceal Her Majesty's property an offence.

2. If any person, with intent to conceal Her Majesty's property in any naval or victualling stores, takes out, destroys, or obliterates wholly or in part any such mark as aforesaid, he shall be guilty of an offence, and shall be liable in the discretion of the court before which he shall be tried to be imprisoned for any term not exceeding two years, with or without hard labour.

Knowingly receiving, &c. marked stores an offence.

3. If any person without lawful authority (proof of which authority shall lie on the party accused) receives, possesses, keeps, sells, or delivers any naval or victualling stores bearing any such mark as aforesaid, knowing them to bear such mark, he shall be

Where stores exceed five pounds in value.

guilty of an offence, and shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour: Provided that if the value of such stores does not exceed five pounds such person shall be liable to be tried before a police court, and shall be subject to such punishment as it shall be lawful for the police court to inflict.

Criminal possession explained.

4. For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

No unauthorized person to creep, sweep, &c. for stores within 100 yards of dock-yards, &c

5. It shall not be lawful for any person, without permission in writing from the officers of the Admiralty, or from some person authorised by such officers in that behalf, to creep, sweep, dredge, or otherwise search for stores in the sea or any tidal water within 100 yards from any vessel belonging to Her Majesty or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to Her Majesty, or from any of Her Majesty's wharves, or dock, victualling, or steam factory yards. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding five pounds, or to be imprisoned for any term not exceeding three months, with or without hard labour.

SCHEDULE.

Marks appropriated for Her Majesty's use in or on Naval and Victualling Stores.

Stores.	Marks.
Hempen cordage and wire rope -	White, black, or coloured worsted threads laid up with the yarns and the wire respectively.
Canvas, fearnought, hammocks, and seamen's bags - - -	A blue line in a serpentine form.
Buntin - - -	A double tape in the warp.
Candles - - -	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal, and other stores not before enumerated - - -	The broad arrow.

16th October 1867.

188.

No. 8 OF 1867.

An Ordinance to provide for the better Protection of Government Property entrusted to the charge of Pioneers, and for the apprehension of Pioneer Deserters.

WHEREAS it is expedient to provide for the better protection of Government property entrusted to the charge of pioneers, and for the speedy apprehension of pioneer deserters: It is enacted as follows: Preamble.

1. Repealing clause.

2. It shall be lawful for any officer appointed to the command of a division of pioneers in the department of the Commissioner of Roads, on receiving information of the desertion of any pioneer serving in his division, to issue warrant signed by him in substantially the form A. in the schedule annexed for the apprehension of such pioneer, to be dealt with according to law, wherever he may be found, and to entrust the same for service to any person named therein; and such warrant shall have force and be in every respect treated and dealt with as if it had been issued by a justice of the peace, and the person named as the server thereof shall be entitled to serve such warrant, and shall for that purpose have all the powers belonging to duly authorised process servers by the laws of this country. Officers commanding pioneer divisions may issue warrant for apprehension of pioneer deserters.

3. If any pioneer shall sell, or barter, or give away, or shall wilfully damage or spoil any clothes, tools, arms, or ammunition supplied or entrusted to him as such pioneer, or shall be concerned in or connive at any such sale, exchange, gift, or wilful damaging or spoiling, he shall be guilty of an offence, and shall be liable to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to corporal punishment not exceeding twenty lashes, or to both. Penalty on any pioneer selling clothes, &c. supplied to him.

4. Any person who shall knowingly detain, buy, exchange, or receive from any pioneer or any other person, on any pretence whatever, or shall solicit or entice any pioneer, or shall be employed by any pioneer, knowing him to be such, to sell or barter any clothes, tools, arms, or ammunition supplied or entrusted to any such pioneer by the Government of this Colony, or by any officer thereof, in the execution of his office, or who shall have in his possession or keeping any such clothes, tools, arms, or ammunition as aforesaid, and shall not give a satisfactory account how he came by the same, or shall change the colour of any such clothes as aforesaid, shall be guilty of an offence, and shall be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to both; and if any creditable person shall prove on oath before a justice of the peace, a reasonable cause to suspect that any person has in his possession or on his premises, within the jurisdiction of such justice, any property of the description herein- Penalty on persons purchasing or enticing pioneers to sell, or unlawfully possessing such clothes, &c.

before mentioned, on or with respect to which any such offence shall have been committed, the said justice may grant a warrant to search for such property, as in the case of stolen goods, and if upon search any such property shall be found, the same shall and may be seized by the officer charged with the execution of such warrant, who shall bring the person in whose possession the same shall be found before such justice, to be dealt with according to law.

Police court to have cognizance of offences under sections 3 and 4.

5. It shall be competent for police courts to take cognizance of the offences specified in sections 3 and 4, and to inflict such punishment on the offenders as they are empowered to award in the exercise of their ordinary jurisdiction.

Limitation of prosecution.

6. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance, unless the same shall be commenced within six months from the time of the commission of such offence.

SCHEDULE.

A.

Warrant of Apprehension.

To of

Take into your custody the body of of charged with having quitted the service of the Government without leave or reasonable cause before the end of (his *or* her) term of service (*or* previous warning, *as the case may be*), in breach of the clause of the Ordinance No. of

Given under my hand this day of 186

A.B.

Officer commanding the division of pioneers.

16th October 1867.

189.

No. 9 of 1867.

An Ordinance to amend the Joint Stock Companies Ordinance, 1861.

Preamble.

Whereas it is expedient to amend the "Joint Stock Companies Ordinance, 1861:" It is enacted as follows:

1. Has had its effect.

Repeal of 6th clause of Ordinance No. 4 of 1861.

2. The 6th clause of the Ordinance No. 4 of 1861 is hereby repealed, and in lieu thereof it is enacted as follows:

Penalty on unregistered partnerships exceeding a certain number.

No company, association, or partnership consisting of more than twenty persons shall, after the passing of this Ordinance, carry on any trade or business having for its object the procurement of gain to the company, association, or partnership, or to the individual members thereof, unless it is registered as a company

under the "Joint Stock Companies Ordinance, 1861," or is incorporated or otherwise legally constituted by some Act of Parliament, royal charter, or letters patent, or is registered as a company under or by virtue or in pursuance of any Act of Parliament relating to joint stock companies; and if any persons do so carry on business contrary to this provision, every person so acting shall be severally liable for the payment of the whole debts of the company, association, or partnership, and may be sued for the same without the joinder in the suit of any other member of the company, association, or partnership.

3. Every instrument appointing a proxy to vote at any meeting, within this Island or elsewhere, of the proprietors or shareholders of and in any joint stock company, or other company or society whose stock or funds are divided into shares and transferable, shall bear a stamp of sixpence.

Proxies to vote at meetings to bear a stamp of sixpence.

4. This Ordinance and the Ordinance No. 4 of 1861 shall be read and construed as if they formed one Ordinance.

This Ordinance and No. 4 of 1861 to be read as one.

6th November 1867.

190.

No. 10 of 1867.

An Ordinance for amending the Fiscals Ordinance, 1867.

Whereas it is expedient to amend "The Fiscals Ordinance, 1867:" It is enacted as follows:

Preamble.

1. That section 15 of the Ordinance No. 4 of 1867, "To amend and consolidate the Law relating to Fiscals and their Officers," is repealed, and instead thereof it is provided that the fees and charges collected under section 14 of the said Ordinance shall be paid in, and form part of, the colonial revenue; but the Treasurer shall nevertheless be bound to render to the Government the quarterly statements prescribed by the said Ordinance, to enable the Government to regulate thereby the expenditure of the Fiscals department, to remunerate the officers thereof, and otherwise to promote its strength and efficiency.

Section 15 of Ordinance No. 4 of 1867 repealed, and this substituted.

2. This Ordinance and the Ordinance No. 4 of 1867 shall be read and construed as if they formed one Ordinance.

This and No. 4 of 1867 to be read as one.

6th November 1867.

191.

No. 12 OF 1867.

An Ordinance to provide for the Military Expenditure of the Colony.

Preamble.

WHEREAS the Ordinance No. 16 of 1864, entitled "An Ordinance relating to the Military Expenditure of the Colony," was enacted for the purpose of making temporary provision for such expenditure, pending a full and detailed investigation into every part of the military expenditure, with the view to settle a definite scale of military force and military works and buildings to be chargeable to the Colony in time of peace, and also to determine how far the administration and detailed payment of the service should rest or not with the Colonial Government, and what should be the amount and mode of payment, whether by fixed sums or by capitation rates on the troops employed, or by assessment for services undertaken by the Imperial authorities:

And whereas such full and detailed investigation has been made by certain civil and military officers empowered thereto by virtue of a commission issued by the Governor in pursuance of instructions received from Her Majesty's Government, and such officers have made their report:

And whereas certain arrangements have been come to between Her Majesty's Government and the Government of this Island upon such report, and it is necessary to give the force of law to those arrangements, and to provide appropriations permanently from the colonial revenue for the military services of the Island: It is therefore hereby enacted as follows:

Short title.

1. This Ordinance shall be cited for all purposes as "The Military Expenditure Ordinance, 1867."

2. Repealing clause.

30,000*l.* for military works and buildings.

3. The sum of thirty thousand pounds charged upon the revenues of the Island by the Ordinance No. 16 of 1864, and subsequently set aside, with all interest which shall have accrued thereon, shall be available for military works and buildings, to be constructed upon such plans and estimates and according to such arrangements with Her Majesty's Secretary of State for War for the time being, as may be approved from time to time by the Governor and Executive Council; and the said sum, with the accumulated interest, may be issued and applied for the purposes aforesaid at such times and in such proportions as the Governor for the time being, by any warrant or order in writing to be signed by him, shall from time to time order and direct.

160,000*l.* charged on revenues of

4. In lieu of the payments authorised to be made under the said Ordinance No. 16 of 1864, authority is hereby given for the pay-

ment at the rate of one hundred and fifty thousand pounds a year from the first day of July of the present year, and at the rate of one hundred and sixty thousand pounds a year from the first day of January one thousand eight hundred and sixty-eight; and such sums are hereby charged upon the revenues of this Island as provision for all military charges whatsoever, save and except the colonial pay and allowances of the aide-de-camp of the Governor of the Island, and the cost of the mounted orderlies.

Ceylon from 1st January 1868, for military service, pensions, works, and buildings.

5. The said sums shall be deemed to be a fixed commutation payable by the Colony in full return for its military defence, and shall be paid monthly in advance into the Imperial treasury chest in this Island, on account of Her Majesty's Government; and in consideration of the payment as aforesaid, and the other provisions herein made, Her Majesty's Government shall be bound to provide and station in the Colony for its protection in time of peace the following force:

160,000*l.* to be paid as fixed commutation for military expenditure.

Force to be provided for such commutation.

2 batteries of Royal Artillery, consisting of 203 non-commissioned officers, rank and file.

1 battalion of European Infantry	„	„ 800	„	„
1 battalion of Native Infantry	„	„ 816	„	„
1 company of Gun Lascars	„	„ 89	„	„

Provided that in the event of the military force hereby agreed upon for the protection of the Colony falling below the establishment in non-commissioned officers, rank and file, upon which the amount of contribution is estimated, as herein set forth, by any number of men exceeding twenty-five on the monthly average of the year, the Colony shall be entitled to recover from the Treasury chest as aforesaid at the rate of one hundred pounds for each European artillery or infantry soldier, and of fifty pounds for each Native infantry soldier or gun Lascar, for the total number of men by which the said average shall have fallen below the establishment: Provided, however, that no deduction shall be made for a deficiency of European infantry which is made up by an excess of artillery, or for a deficiency in native soldiery which is made up by an excess of European: Provided further, that any saving which may have been or shall hereafter be effected by any reduction of the allowances recommended in section 8 of the said report of the military commissioners shall be paid over to the Colony.

6. All ale, beer, and porter required for the use of the non-commissioned officers, rank and file of the European troops quartered in this Colony shall henceforward be imported free, and the same may be imported into the Island or purchased in bond and passed through the Customs duty free: Provided that the total quantity of such ale, beer, and porter so introduced duty free in any one year shall not exceed one quart of ale, beer, or porter per day for every man of the European force present in the Island, and that no drawback or refund of duty already paid shall be demanded or made payable to the military for any ale, beer, or porter purchased in the colonial stores or shops.

Ale, beer, and porter imported for the use of regimental and garrison canteens to pass duty free.

Treasurer to pay above as Governor shall order.

7. The Treasurer of the Island shall issue and pay the several sums to such persons for the purposes herein-before mentioned, upon such days and in such proportions as the Governor for the time being, by any warrant or order in writing to be signed by him, shall from time to time order and direct, and the payment so to be made shall be charged upon and payable out of the revenues of this Island.

Treasurer to receive credits for such payments.

8. The said Treasurer shall in his accounts from time to time be allowed credit for any sum of money paid by him in pursuance of such warrant or order in writing as aforesaid, and the receipt of the respective persons to whom the same shall be so paid shall be a full and valid discharge to the said Treasurer in passing his accounts for any such sum as shall be therein mentioned, and he shall and may receive credit for the same accordingly.

13th November 1867.

192.

No. 14 of 1867.

An Ordinance to consolidate and amend the Law in respect to the Collection of Tolls.

Preamble.

Whereas it is expedient to consolidate and amend the law in respect to the collection of tolls in this Island: It is therefore enacted as follows:

Preliminary.

Short title of Ordinance.

1. This Ordinance may be cited for all purposes as "The Toll Ordinance, 1867."

2. Repealing clause.

Interpretation clause.

3. In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject matter), the following terms shall have the respective meanings herein-after assigned to them; that is to say,

"Horse" shall include pony, ass, or mule:

"Ox" shall include any bullock, buffalo, or any other beast of burden, except an elephant:

"Load" shall include all description of goods, but not passengers:

"Vehicle for passengers" shall include carriages, hackeries, and vehicles capable of carrying passengers, and commonly used for such purpose, though not actually carrying passengers at the time:

"Vehicle for goods" shall include carts, waggons, and all vehicles capable of carrying loads, and commonly used for

such purpose, although not actually carrying goods at the time:

"Boat" shall include pada boats, batel, lighter, single or double canoe, scooped dhoney, ballam, raft, tug, catamaram, collah, and all other boats whether of European or native build.

Tolls established.

Tolls at roads, bridges, ferries, and canals.

4. Subject to the provisions and limitations herein-after contained, tolls shall be levied upon all horses, oxen, vehicles, and boats, in respect of the roads, bridges, ferries, and canals specified in the schedules B, C., D., and E. respectively, to this Ordinance annexed, and in respect of ferries, upon all foot passengers, at such rates as the Governor from time to time, by proclamation in the "Government Gazette," shall be pleased to appoint, provided that the same shall in no case exceed the rates herein-after specified; that is to say;

Tolls on Roads and at Bridges and Ferries.

		£	s.	d.
Every vehicle for passengers, drawn by one horse, driver and passengers included -	with two wheels	0	1	3
	with four do.	0	1	6
Every vehicle for passengers, drawn by two horses, driver and passengers included -		0	2	0
Every additional horse used in drawing such vehicle, and attached thereto - - -		0	0	3
Every vehicle for passengers drawn by one ox, driver and passengers included - -		0	1	0
Every additional ox attached thereto - -		0	0	1½
Every horse carrying a load or not carrying a load, with or without a rider - - -		0	0	6
Every ox carrying a load - - -		0	0	3
Every vehicle carrying a load, and drawn by one horse or ox - - - - -		0	0	9
Every vehicle carrying a load, and drawn by two horses or oxen - - - -		0	1	0
Every additional horse or ox attached thereto -		0	0	3
Every vehicle not carrying a load, and drawn by one horse or ox - - - -		0	0	3
Every vehicle, not carrying a load, and drawn by two horses or oxen - - - -		0	0	4½
Every additional horse or ox attached thereto -		0	0	1½
Every vehicle carrying a load, and drawn by two elephants - - - - -		0	2	0
Every vehicle not carrying a load, and drawn by two elephants - - - -		0	1	0
Every vehicle carrying a load, and drawn by one elephant - - - - -		0	1	6
Every vehicle not carrying a load, and drawn by one elephant - - - - -		0	0	9

Collection of Tolls.

	£	s.	d.
Every elephant carrying a load - - -	0	0	9
Every elephant not carrying a load - -	0	0	6
Every palanquin with bearers, not exceeding twelve, crossing ferries - - -	0	1	0
Every ox, cow, calf, sheep, goat, or pig - -	0	0	0¼
Every leaguer or cask not carried in a vehicle -	0	0	2
Every vehicle not enumerated above - -	0	1	0
Every foot passenger crossing ferries, except children under twelve years of age, and keepers and leaf cutters attending elephants, horses, and cattle - - - - - -	0	0	0½

Tolls on Canals.

		£	s.	d.
Padda boat, battel, or lighter of and under 50 feet in length	loaded - -	0	3	0
	unloaded -	0	1	6
Padda boat, battel, or lighter over 50 feet in length -	loaded - -	0	5	0
	unloaded -	0	2	6
Double canoe, scooped dhoney, and collah - -	loaded - -	0	1	4
	unloaded -	0	0	8
Every additional canoe supporting a platform -		0	0	3
Single canoe or ballam, with freight or passengers - - - - - -		0	0	9
Single canoe or ballam unloaded - -		0	0	4
Raft or catamaram 30 by 10 feet, and under - -	loaded - -	0	2	0
	unloaded -	0	1	0
For every additional foot, over 30 feet in length and 10 feet in breadth - - -	loaded - -	0	1	0
	unloaded -	0	0	6
Every boat not enumerated - - -		0	1	0

First proviso. Tires of wheels of carts less than 3 inches wide to be charged one fourth more.

Provided that from and after the 1st day of January 1869 the tolls leviable on every vehicle for goods having the tires of the wheels of less width than three inches shall be one fourth more than the tolls leviable on vehicles for goods the tires of the wheels of which shall be three inches or more in width; and the toll-keeper, or other person acting by or under his order, shall have authority to measure and examine, or cause to be measured and examined, the wheels of every vehicle for goods to ascertain the width thereof.

Second proviso. Larger toll on ferries more than half a mile wide.

Provided further, that it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation in the "Government Gazette," from time to time to cause a higher rate of toll than that above specified to be levied in respect of ferries which shall exceed half a mile in width.

Third proviso. As to fishing boats and vehicles and boats, &c. conveying manure.

Provided further, that boats or canoes employed in fishing, and not conveying loads or passengers, shall be exempt from toll, and that no tolls shall be demanded or taken for or in respect of any horse, ox, vehicle, boat, or canoe when employed, or going to be or returning from having been employed, in carrying or conveying

only dung, soil, compost, bone dust, or manure for land (save and except lime, salt, saltpetre, and poonack), and the necessary implements used for filling the manure, and, in the case of boats, the necessary tackle, apparel, and provisions of such boats and the crew thereof.

Tolls on bridges, roads, canals, and ferries hereinafter built, made, dug, and established.

5. Whenever it shall be found necessary to build a bridge, other than those specified in the said schedule C., the cost of which shall amount to five hundred pounds or more, it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation in the "Government Gazette," to direct that tolls, not exceeding those specified in the fourth clause, shall be levied in respect thereof; and whenever it shall be found necessary to establish any ferry other than those enumerated in the said schedule D., it shall be lawful for the Governor, with the like advice and in like manner, to direct that tolls not exceeding those specified in the said clause shall be levied in respect thereof.

Provisions of this Ordinance made applicable to future tolls.

6. Whenever tolls shall be directed to be levied under the fifth section of this Ordinance, or whenever tolls shall be established by any other Ordinance to be hereafter enacted, the provisions of this Ordinance shall be held applicable thereto as if those tolls were specified herein, and the proclamations and ordinances by which the same shall be respectively levied and established shall be read and construed as if they formed part of this Ordinance, and shall be applied and put in execution accordingly.

Exemptions.

7. The Governor or Lieutenant-Governor, and his suite, when in immediate attendance on him, together with all their necessary attendants, horses, animals, conveyances, baggage, and implements, all Her Majesty's officers and soldiers on duty or on their march, and their horses and baggage, and all carriages and horses belonging to Her Majesty or employed in her service, and all horses, animals, and vehicles conveying any such persons as aforesaid, or their baggage, or returning from conveying the same, and all messengers, carriages, and horses drawing or carrying the public mails, shall be exempted from payment of any toll; and it shall be lawful for the Government Agent, if he shall see fit so to do, to direct the toll-keeper in writing to permit cattle or sheep driven to grass, persons with cattle, agricultural instruments, or seed grain, for the cultivation of their lands, and children going to and from school, to pass without payment of toll. All persons, vehicles, animals, or boats employed in the construction or repair of any road, bridge, canal, or ferry, within ten miles of the toll station, or in making crown surveys within that distance, shall pass without payment of toll, on production of a certificate of such employment from the officer superintending the work or survey; and any officer giving such certificate to or in respect of any person, vehicle, or animal, or boat not *bonâ fide* employed as aforesaid shall be guilty of an offence, and be liable on conviction to a fine not exceeding five pounds.

Regulation as to Toll.

The Governor to fix toll station.

8. It shall be lawful for the Governor from time to time, by proclamation in the "Government Gazette," to determine at what places the tolls authorized to be levied shall be collected, and the said places from time to time in like manner to alter, or other places to establish, for the collection of such tolls instead thereof, and if need be to repeal or alter any of the proclamations now in force or to be hereafter issued.

Return tolls.

9. No toll shall be levied upon any passenger, vehicle, animal, or boat, upon his or its return by, over, or through any road, bridge, canal, or ferry, at which he or it shall have paid toll on the same day (to be computed from 12 o'clock at night to 12 o'clock of the succeeding night), unless such vehicle, animal, or boat shall carry a different load; and the one half only of the appointed toll shall be levied upon any passenger, vehicle, animal, or boat at any road, bridge, canal, or ferry, by, over, or through which he or it shall have passed in a like direction on the same day, unless such vehicle, animal, or boat shall carry a different load: Provided that it shall be incumbent upon the party claiming such total or partial exemption to produce a ticket signed by the keeper of such toll station, denoting such previous payment to have been made, and provided also that no payment of toll upon any vehicle, animal, or boat when unloaded shall in any manner affect any toll to which such vehicle, animal, or boat is hereby declared to be liable when loaded.

Ticket required to clear passengers.

10. Every person having once paid toll in respect of himself or of any vehicle, animal, or boat at any place payment at which shall have been declared by the Governor, by proclamation in the "Government Gazette," to clear any other place, shall, on the production at such other place of a ticket denoting such payment to have been made, pass the same without any further payment of toll, except where such person, vehicle, animal, or boat shall at such latter place have become liable to a different rate of toll.

Toll-keepers.

Appointment of toll-keepers.

11. The tolls hereby established shall be taken and levied by the toll-keeper or some one of the toll-keepers to be appointed by the Government Agent of the province in which such tolls are levied, except as hereafter provided: Provided that in any case in which more than one toll-keeper shall be appointed for any place, such toll shall be demanded and taken by such one only of the said toll-keepers as shall at the time of such demand be the wearer of the metal badge herein-after mentioned; and if the privilege of collecting tolls at any place shall at any time be let to any party, it shall be lawful for the Government Agent, except as aforesaid, on the application of such party, to appoint such person or persons as he may name to be toll-keeper or toll-keepers at such place; and if such party shall at any time be desirous of

removing any toll-keeper appointed on his application as aforesaid, he shall give a written notice of his intention so to do to the Government Agent or his assistant at least ten days before carrying the same into effect; and any party who shall remove any toll-keeper without giving such notice shall be guilty of an offence, and be liable on conviction thereof to pay a fine not exceeding five pounds.

12. Every toll-keeper appointed under this Ordinance shall, while engaged in the collection of tolls, wear a metal badge, whereon shall be engraved the name of the place at which he is appointed to collect tolls; and there shall be suspended at some conspicuous place immediately adjoining to every place at which tolls are hereby authorized to be collected, so as to be distinctly legible in the English and Native languages, a copy of the fourth section of this Ordinance, and also a notice setting forth the name or names of the person or persons appointed to collect the tolls at such place.

Toll-keepers to wear badge; and put up table of tolls and name.

13. Every toll-keeper while engaged in the collection of tolls shall be provided with tickets consecutively numbered, acknowledging the payment of toll and the date thereof, and mentioning the road, bridge, ferry, or canal, if any, cleared by such payment, one of which tickets, duly signed by him, shall be delivered gratis to the person paying the toll; and every such ticket shall be in the English and Native languages, and in the form hereunto annexed: Provided always, that it shall be lawful for the Government Agent, if he shall see fit so to do, to grant to such toll-keeper permission to deliver such tickets in the Native languages only.

Toll-keeper to give tickets.

14. From and after the first day of January 1869, every toll-keeper whilst engaged in the collection of tolls shall be provided with a small hand gauge, bearing the Government stamp, to enable him, whenever he is required to do so, to test the width of the tires of vehicles referred to in the first proviso attached to the 4th clause of this Ordinance; and also with a standard test gauge, stamped as aforesaid, for the purpose of testing the accuracy of his hand gauge; and it shall be lawful for the Government Agent from time to time to check the said hand gauge, and to replace it when and so often as to him it shall appear necessary.

Toll-keeper to have a hand gauge; and a standard test guage.

15. If any toll-keeper shall at any time collect any toll without wearing a metal badge as aforesaid, or omit to suspend a copy of the fourth section of this Ordinance, and the notice of the name or names of the person or persons appointed to collect the tolls, or shall wilfully remove, conceal, alter, or deface the same or either of them, or permit either of them to become illegible, or shall demand or take toll in any case in which toll is not payable under the provisions of this Ordinance, or a greater or less toll than he shall be authorized to do thereunder, or shall fail to grant to any person having paid toll a ticket denoting such payment as hereinbefore required, or shall wilfully subject any passenger, vehicle, animal, or boat, to unreasonable delay or detention, or shall demand or take toll from any person by this Ordinance exempted

Toll-keeper acting contrary to the Ordinance.

from the payment of toll, or from any person whom he has been duly directed by the Government Agent to permit to pass without payment of toll, or shall fail to provide himself with a hand gauge and a standard test gauge stamped as aforesaid, or shall use any but the gauge supplied him to test the width of the tires of wheels, or shall fail or neglect to report the inaccuracy from wear of any gauge supplied him, or shall wilfully use an incorrect gauge, such toll-keeper shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds, and on any second or subsequent conviction to a fine not exceeding ten pounds.

Further Penalties.

Penalty on levying tolls without authority.

16. If any person other than a toll-keeper duly appointed to collect toll shall demand or take any toll, or for the purpose of appearing or representing himself to be a toll-keeper shall wear or carry, or produce or exhibit to any person liable to pay toll the metal badge which by this Ordinance a toll-keeper is required to wear, or any badge resembling or intended to resemble such metal badge, or shall otherwise personate or represent himself to be a toll-keeper, every person so offending shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five pounds; and any toll-keeper who shall wilfully lend or give his metal badge to any person not duly appointed to collect toll, in order that the person should personate such toll-keeper, or shall be otherwise accessory to the collection of toll by any person not duly appointed as aforesaid, every such toll-keeper shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five pounds.

Penalties for infringement of the Ordinance by passenger.

17. If any person liable to payment of tolls shall pass from any road over any land near or adjoining thereto (not being a public highway), with intent to evade such payment, or shall fraudulently or forcibly pass or take his vehicle, animals, goods, or boat, by, over, or through any place duly appointed for the collection of tolls, or shall resist or make forcible opposition against any person duly appointed to collect tolls in the execution of his office; or if any person shall wilfully or maliciously damage any bar, boat, bridge, or other thing employed for the purpose of collecting tolls, or shall wilfully or maliciously remove, deface, alter, or damage any copy of the fourth section of this Ordinance, or the notice suspended as herein-before directed, or any hand gauge or standard test gauge herein-before mentioned; or if any person other than a person duly appointed to collect tolls shall give, or if any person shall receive from any person other than a person duly appointed as aforesaid, or shall forge, counterfeit, or alter any ticket or certificate of payment or exemption with intent to evade or reduce the payment of any toll, or if any person shall do any other act whatsoever in order to evade or reduce the payment of any toll, and whereby the same shall be evaded or reduced, every such person shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five pounds.

Collection of Tolls.

18. If any person, not being a duly appointed toll-keeper, shall convey any goods, vehicle, or animal, not being his property, or any passenger not in his service, across any river or stream, by any boat or other means either at or within a distance of one mile above or below any road, bridge, ferry, canal, or place at which tolls shall be leviable, such person shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five pounds.

Prohibition for employment of private boat

19. It shall not be lawful for any person in order to avoid payment of any toll, whether in whole or in part, to remove or cause to be removed any goods from any animal, vehicle, or boat on one side of any road, bridge, ferry, canal, or place appointed for the collection of tolls, to any other animal, vehicle, or boat on the opposite side thereof, unless after payment of toll upon the animal or vehicle on or in which the same shall have been so brought as a loaded animal or vehicle ; nor for any person to unload or cause to be unladen any goods from any animal or vehicle upon which the same shall have been brought to any road, bridge, ferry, or place appointed for the collection of tolls, and to load or cause the same to be reladen upon such animal or vehicle after it shall have passed such road, bridge, ferry, or place, unless after payment of toll upon such animal or vehicle as a loaded animal or vehicle; and any person acting contrary to the provisions of this clause shall be guilty of an offence, and be liable on conviction to a fine not exceeding five pounds.

Toll payable on transfer of goods at toll station.

Miscellaneous.

20. The powers herein given to the Government Agent of any province shall also belong to and be executed by every Assistant Government Agent within his district.

Powers vested in Agents may be exercised by Assistant Agents.

21. Nothing herein contained shall be held to affect the power of the municipal council to impose tolls within the limits of the municipality, with the sanction of the Governor and the Executive Council, as provided by "The Municipal Councils Ordinance, 1865" (section 57), or any other Ordinance to be in that behalf hereafter enacted, and when the municipal councils shall so establish tolls, or when tolls shall have been made over or shall hereafter be made over to any municipal council, they shall be empowered to appoint toll-keepers, and the provisions of this Ordinance shall, unless altered or modified by the bye-rules of any municipal council, apply to the tolls so established or made over as if those tolls were specified in this Ordinance.

Municipality tolls.

22. No prosecution shall be instituted against any person for any offence committed against the provisions of this Ordinance, unless the same shall be commenced within one month from the time of the commission of such offence.

Limitation of prosecution.

23. It shall be lawful for the magistrate, should he see fit so to do, to award any portion of the fine actually recovered and realized under any of the provisions of this Ordinance, not exceeding one half thereof, to the informer.

Informer's share.

24. Has had its effect.

SCHEDULE.

B. (§ 4.)

ROADS.

Western Province.

On the road from Colombo to Kótté near 4th mile-post.
On the Kandy Road at the 10th mile-post.
On the road from Já-ela to Henaratgoda.
On the road from Sídúwa to Henaratgoda.
On the road from Kótté to Kaduwela, near 9th mile.
On the road between Ratnapura and Pelmadulla.
On the road from Pasyála to Giriulla.
On the road from Pasyála to Hanwella.
On the road from Bandáragama to Waskaduwa.
On the road from Colombo to Galle, at or near the 16th mile-post.
On the road from Negombo to Giriulla.
Between the 4th and 6th mile-posts.
Between the 16th and 18th mile-posts.
On the road from Kalutara to Agalawatta at Dodangoda, near the junction of the road with the Minor Road, from Payyágala.
On the road from Pámankada to Horana, between the 15th and 16th mile-posts, in the village Wérahera.
On the road from Negombo to Dúnágaha at Miriswatta, between the 5th and 6th mile-posts near the road leading to Kandawala.
On the road from Tudella to Pamunugama.
On the road from Kelaniya through Biyagama to Minuwangoda at 13th mile-post, and between the 20th and 21st mile-posts.
On the Utuwankanda and Dolosbágé Road.
On the road from Pelmadulla to Balangoda.
On the road at Bandáragama between Horana and Balangoda.
On the road from Gordon's Bridge to Kadigomuwa.
On the road at Gallegey between the 82nd and 83rd miles from Colombo to Haputalé.
On the road from Dolosbágé at its junction with the road from Máwanella.

North-western Province.

On the Puttalam Road at Kotúcatchi.
On the road from Kurunégala to Colombo at Polgahawela.

Southern Province.

On the road from Colombo to Galle, at Hikkaduwa.
On the road from Galle to Tangalla.
Between the 102nd and 103rd mile-posts.
Between the 118th and 119th mile-posts;
With a branch toll at Godakumbura, on the road from Dikwalla to Beliatta.
On the road leading from Polwatta to Akuressa.

Collection of Tolls.

Central Province.

On the road from Kandy to Nuwara Eliya, at Pusselláwa, at Ramboda, and at Kodigaha on the top of the pass.
On the road from Katugastota to Kelébokka.
On the road from Yatiyantota to Ambagamuwa, at Ginigathéna Pass.
On the Deltota Road, between Pérádeniya and Galoya, and between Galoya and Deltota.
On the road between Kandy and Mátalé, at the Ballakadua Pass.
On the Ampittiya Road.
On the road to Maturata viâ Hanguranketa.
On the road to Medamahanuwara, viâ Rájawelle and Teldeniya.
On the Panwila Road, between the 16th and 17th milestones from Kandy.
On the road from Nuwara Eliya to Badulla, at or near the village of Padináwela, at Welimada, and at the 76th mile-post, Moratota.
On the road from Badulla to Hambantota, at Ella.
On the road from Návalapitiya to Tispane, at or near the 6th mile-post, below the Kotmalé Bazaar.
On the road from Kandy to Jaffna, at Aluwihára.
On the road from Mátalé to Rattota, at Kaloodehwella, and at Weragamo.
On the road from Colombo to Gampola, at Evryagama.
On the Yatawatta Road in the Mátalé District.
On the road from Haputalé to Badulla, at the 124th milestone, Kumbalwatta.
On the Ratnapura and Haputalé Road at Weli Oya.
At Haputalé, at the 112th mile-post.
On the road from Badulla to Batticaloa, at Taldeniya.
At Dambul, at the junction of the Kurunegala Road with the North Road.
On the road from Kandy to Maturata Rikillagaskada Gap. Between the 17th and 18th mile-posts.
On the road from Náwalapitiya to Dimbula.

Northern Province.

On the road from Jaffna to Dambulla, between the 16th and 18th milestones from Jaffna.
On the road from Point Pedro to Kodikámam, at Tumiála; near the 3rd milestone.
On the road from Puttúr to Kodikámma.

C. (§ 4.)

BRIDGES.

Western Province.

Dandugama.
Alutgama.
Anguruwella.
Bilhul Oya Bridge at Galagamuwa, between the 92nd and 93rd miles from Colombo to Haputalé.
Kuruwita.
Kahawatta.
Gętahętta.
Kospalankissa.
Kalutara.
Kotugoda.
Andiambalama.
Pattalagedara.
Embulgama.
Bibili Oya.
Ambépussa.
Máwanella.
Bridge of Boats.
Draw Bridge at Grand Pass.
U'rugodawatta.
At or near the Bridge at Bambalapitiya, over the Kirillapane Canal.
At or near the Kirillepenne Bridge, near the 4th mile-post on the Galle Road.

North-western Province.

Tun-módara.
Moderewille.
Bridge at the foot of the Galagedara Pass.
Kospotu Oya.
Maguru Oya.

Southern Province.

Balapiti Módara.
Pol Oya.
Gintara.
Bentota.
Polwatta.
Polkandan Ęla.

Central Province.

Kíraponé.
Gampola.
Welleoya.
Panaloya.
Badulla.
Nálanda.
Taldeniya.
Bawwagama.
Pérádeniya.
Katugastota.
Talátu Oya.

Northern Province.

Uppár.
Kóppái.
Tondamanáru.
Vallái.
Vinnattippalam.

D. (§ 4.)

FERRIES.

Western Province.

Mutuwádiya.
Sítáwaka.
Pánadura.
Horékelé.
Katukurunda.
Hanwella.
Bolgoda.
Rukgaha Totupola.
Kammala.
Digalla.
Tóppuwa.
Katána.
Kosgahamankada.
Giriulla.
Ketéwatta.
Kotadeniyáwa.
Angurutota.
Arandara.
Ruwanwella.
Karawanélla.
Ritigaha Oya.
Warakátota.
Demuwátta.
Múnamalwatta Totupola.
Pasbetal.
Mutwal.

North-western Province.

Alawwa.
Chilaw.
Gin Oya.
Batulu Oya.
Senkal Oya.
Kalpitiya.
Kalpitiya Mutwal.
Pálávi.
Puttalam and Ettala.
Deduru Oya and branch at Mutwal.
At the Deduru Oya on the road from Puttalam to Kurunégala.

Southern Province.

Halpátota.
Ackuresse.
Walawé.

Central Province.

Kondasálé.
Ilukmódara.
Maha Oya.
Uma Oya.
Bilhul Oya.
Pangáragammana.
Weragantota.
Halloluwa.
Léwella.
Gonáwala.

Northern Province.

Columbukamam.
Pannaitturai.
A'ráli.
Mannár.
Kokolay.

Eastern Province.

Puliantivu.

E. (§ 4.)

CANALS.

Western Province.

Canal at Hendala and at Pamunugama.
Canal at Gorakagahatotupola.

Canal at Negombo.
Canal at Kittampawwa.
Old Canal at Kalutara.
New Canal at Kalutara.
Canal at Grand Pass.
Canal at Draw Bridge.
Lock Gate at St. Sebastian.

North-western Province.

Canal at Nátandé.
Canal between Chilaw and Puttalam.
Canal at Palavy.

Form of Ticket.

No.

Toll station

Date 18

This ticket clears
Received for
The sum of

Signature.

4th December 1867.

193.

No. 15 of 1867.

An Ordinance to amend the Ordinance No. 6 of 1866.

Whereas it has been represented to the Government that it would be almost impracticable in many places to comply strictly with the provisions of section 3 of the Ordinance No. 6 of 1866, entitled "An Ordinance to compel the Registration of Old Deeds "and other Instruments of Title," and that the object aimed at by that Ordinance would be gained by simple registration, without requiring exact copies to be taken in such places : It is hereby enacted as follows :

Governor may dispense with the taking of deeds and copies in any district or districts.

1. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by proclamation to be published in the "Government Gazette," to dispense in any district or districts of this Island with the provisions contained in section 3 of the said Ordinance, so far as they relate to the taking of exact copies of deeds, olas, or other instruments, and to authorize the registrar of lands of such district or districts to register the substance of such deeds, olas, or other instruments, in such form and with such particulars as shall be prescribed in the said proclamation; and the registrar shall in such cases cause the registry so made by him to be carefully filed and preserved in his office, and the original to be returned, with his endorsement as

provided in the said section, to the person from whom he received the same.

2. In those places in which the taking of copies shall be dispensed with as herein-before provided, the provision in section 7 of the said Ordinance shall apply to the deeds, olas, or other instruments registered as required by the said proclamation, as if the same shall have been registered in the manner directed by the said Ordinance.

Provision of section 7 of the Ordinance will apply to such registries.

3. This Ordinance and the Ordinance No. 6 of 1866 shall be read and construed as if they formed one Ordinance.

This Ordinance and Ordinance No. 6 of 1866 to be read as one.

11th December 1867.

194.

No. 16 of 1867.

An Ordinance relating to certain Official Designations.

Whereas it is expedient to change certain designations hereinafter described : It is therefore hereby enacted as follows :

Preamble.

1. The office of the civil engineer and commissioner of roads shall be henceforward termed "the department of public works."

Future designation of civil engineer and commissioner of roads' office.

2. The chief officers of the above office and of the police force shall be henceforward termed "director of public works" and "inspector general of police" respectively, instead of "civil engineer and commissioner of roads," and "chief superintendent of police."

Future designation of the heads of that office and of the police force.

3. All the powers vested in those officers respectively, and in their assistants, by the different Ordinances heretofore enacted relating to them, and all the provisions made therein applicable to such officers and their assistants, shall be vested in, exercised by, and be deemed applicable to the director of public works, and the inspector general of police, and their assistants respectively.

Powers of and provisions applicable to those officers to be vested in and apply to the director of public works and inspector general of police, and their assistants.

11th December 1867.

195.

No. 17 of 1867.

An Ordinance for the better Prevention of Contagious Diseases.

Whereas it is expedient to provide for the better prevention of contagious diseases : It is therefore hereby enacted as follows :

Preamble.

1. This Ordinance may be cited as "The Contagious Diseases Ordinance, 1867."

Short title.

Contagious Diseases.

Commencement and limits within which Ordinance is to have force.

2. This Ordinance shall come into operation at such times and in such places as the Governor, with the advice of the Executive Council, shall by proclamation from time to time appoint.

Interpretation.

3. In this Ordinance the following words and expressions shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction:

The term "contagious disease" shall mean venereal disease, including gonorrhœa.

The term "visiting surgeons" shall mean such number of surgeons as the principal civil medical officer shall, with the approval of the Governor, depute for the performance of the duties imposed by this Ordinance.

The term "superintendent of police" shall mean the officer superintending the police force in any district.

Principal civil medical officer to be inspector of hospitals, and to make regulations.

4. The principal civil medical officer shall be deemed inspector of hospitals for the purposes of this Ordinance, and shall make regulations for the management and government of hospitals, as far as regards women authorized to be detained therein for medical treatment, or being therein under medical treatment for a contagious disease, (such regulations not being inconsistent with the provisions of this Ordinance,) and may from time to time alter any such regulations; but no such regulation or alteration shall come into force until they shall have been approved by the Governor, with the advice of the Executive Council.

A printed copy of regulations to be evidence.

5. A printed copy of regulations, purporting to be regulations of a hospital so approved, such copy being signed by the inspector of hospitals, shall be evidence of the regulations of the hospitals, and of the due making and approval thereof for the purposes of this Ordinance.

Periodical Medical Examinations.

On information police magistrate may issue notice to a woman who is common prostitute.

6. Where an information on oath is laid before the police magistrate of the district within which this Ordinance is made to apply by an inspector of police, charging to the effect that the informant has good cause to believe that a woman therein named is a common prostitute, and either is resident within the district, or, being resident within five miles of the district, has, within fourteen days before the laying of the information, been within the district for the purpose of prostitution, the police magistrate shall issue a notice thereof addressed to such woman, calling upon her to appear before him on a day to be named in such notice for the purposes of examination under this Ordinance, which notice the inspector of police shall cause to be served on her.

Power to police magistrate to order medical examination.

7. In either of the following cases; namely,

If the woman on whom such a notice is served appears herself, or by some person on her behalf, at the time and place appointed in the notice, or at some other time and place appointed by adjournment:

If she does not so appear, and it is shown (on oath) to the police

magistrate that the notice was served on her a reasonable time before the time appointed for her appearance, or that reasonable notice of such adjournment was given to her (as the case may be):

The magistrate on oath being made before him substantiating the matter of the information to his satisfaction, shall order that the woman be subject to a periodical medical examination by a visiting surgeon for any period not exceeding one year, for the purpose of ascertaining, at the time of each such examination, whether she is affected with a contagious disease, and thereupon she shall be subject to such a periodical medical examination; and the order shall be a sufficient warrant for any visiting surgeon to conduct such examination accordingly.

The order shall specify the time and place at which the woman shall attend for the first examination.

The inspector of police shall cause a copy of the order to be served on the woman.

Voluntary submission by woman.

8. Any woman, in any place to which this Ordinance applies, may voluntarily, by a submission in writing signed by her in the presence of and attested by an inspector of police, subject herself to a periodical medical examination under this Ordinance, for any period not exceeding one year.

Visiting surgeon to prescribe times, &c.

9. The visiting surgeon, having regard to the regulations aforesaid and to the circumstances of each case, shall at the first examination of each woman examined by him, and afterwards from time to time as occasion requires, prescribe the times and places at which she is required to attend again for examination; and he shall from time to time give or cause to be given to each such woman notice in writing of the times and places so prescribed.

Detention in Hospital.

Certificate of visiting surgeon.

10. If on any such examination the woman examined is found to be affected with a contagious disease, she shall thereupon be liable to be detained in a hospital, subject and according to the provisions of this Ordinance, and the visiting surgeon shall sign a certificate to the effect that she is affected with a contagious disease, naming the hospital in which she is to be placed; and he shall sign that certificate in triplicate, and shall cause one certificate to be delivered to the woman, and the others to the superintendent of police.

Placing in hospital for treatment

11. Any woman to whom any such certificate of the visiting surgeon relates may, if she thinks fit, proceed to the hospital named in that certificate, and place herself there for medical treatment; but if after the certificate is delivered to her she neglects or refuses to do so, the superintendent of police, or an officer acting under his orders, shall apprehend her and convey her with all practicable speed to that hospital, and place her there for medical treatment, and the certificate of the visiting surgeon shall be a sufficient authority to him for so doing.

The reception of a woman in a hospital by the managers or persons having the control or management thereof shall be deemed

to be an undertaking by them to provide for her care and treatment, lodging, clothing, and food, during her detention in the hospital.

Detention in hospital.

12. Where a woman certified by the visiting surgeon to be affected with a contagious disease places herself, or is placed as aforesaid, in a hospital for medical treatment, she shall be detained there for that purpose, by the medical officer in charge of the hospital, until discharged by him by writing under his hand.

The certificate of the visiting surgeon, one whereof shall be delivered by the superintendent of the police to the medical officer in charge of the hospital, shall, when so delivered, be sufficient authority for such detention.

Power to transfer to another hospital.

13. The inspector of hospitals may, if in any case it seems to him expedient, by order in writing signed by him, direct the transfer of any woman detained in a hospital for medical treatment from that hospital to another named in the order.

Every such order shall be made in triplicate, and one shall be delivered to the woman, and the others to the superintendent of police.

Every such order shall be sufficient authority for the superintendent of police, or any person acting under his orders, to transfer the woman to whom it relates from the one hospital to the other, and to place her there for medical treatment; and she shall be detained there for that purpose by the medical officer in charge of the hospital, until discharged by him by writing under his hand.

The order of the inspector of hospitals, one whereof shall be delivered by the superintendent of police to the medical officer of the hospital to which the transfer is made, shall, when so delivered, be sufficient authority for such detention.

Limitation of detention.

14. Provided always, that no woman shall be detained under any one certificate for a longer time than three months, unless the medical officer in charge of the hospital in which she is detained, and the inspector of hospitals, or the visiting surgeon for the place whence she came or was brought, conjointly certify that her further detention for medical treatment is requisite (which certificate shall be in duplicate, and one certificate shall be delivered to the woman); and in that case she may be further detained in the hospital in which she is at the expiration of the said period of three months by the medical officer, until discharged by him by writing under his hand, but so that any woman be not detained under any one certificate for a longer time in the whole than six months.

Power for woman detained to apply to police magistrate for discharge.

15. If any woman detained in any hospital considers herself entitled to be discharged therefrom, and the medical officer of the hospital refuses to discharge her, such woman shall on her request be conveyed before the police magistrate, who, if he is satisfied upon reasonable evidence that she is free from a contagious disease, shall discharge her from such hospital, and such order of discharge shall have the same effect as the discharge of the medical officer.

During conveyance to

16. Every woman conveyed or transferred under this Ordinance to a hospital shall, while being so conveyed or transferred

thither, and also while detained there be deemed to be legally in the custody of the person conveying, transferring, or detaining her, notwithstanding that she is for that purpose removed out of one into or through another jurisdiction, or is detained in a jurisdiction other than that in which the certificate of the visiting surgeon was made.

hospital, &c., woman deemed to be in legal custody.

17. Every woman shall on her discharge from the hospital be sent to the place of her residence, if she shall have been transferred from one hospital to another under the 13th section of this Ordinance, without expense to herself.

Expenses of woman's return home.

Refusal to be examined, &c.

18. In the following cases, namely :

Punishment of woman for refusing to be examined, &c.

If any woman subjected by order of a police magistrate under this Ordinance to periodical medical examination at any time, temporarily absents herself in order to avoid submitting herself to such examination on any occasion on which she ought so to submit herself, or refuses or wholly neglects to submit herself to such examination on any such occasion :

If any woman authorized by this Ordinance to be detained in a hospital for medical treatment quits the hospital without being discharged therefrom by the medical officer thereof by writing under his hand (the proof whereof shall lie on the accused) :

If any woman authorized by this Ordinance to be detained in a hospital for medical treatment, or any woman being in a hospital under medical treatment for a contagious disease, refuses or wilfully neglects while in the hospital to conform to the regulations thereof approved under this Ordinance :

Then and in every such case such woman shall be guilty of an offence against this Ordinance, and on conviction shall be liable to imprisonment, with or without hard labour, in the case of a first offence, for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months; and in the case of the offence of quitting the hospital without being discharged as aforesaid, the woman may be taken into custody without warrant by any constable.

19. If any woman is convicted of and imprisoned for the offence of absenting herself or of refusing or neglecting to submit herself to examination as aforesaid, the order subjecting her to periodical medical examination shall be in force after and notwithstanding her imprisonment, unless the surgeon or other medical officer of the prison, or a visiting surgeon appointed under this Ordinance, at the time of her discharge from imprisonment certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), and in that case the order subjecting her to periodical examination shall, on her discharge from imprisonment, cease to operate.

Effect of order of imprisonment for absence, &c. from examination.

Effect on order of imprisonment for quitting hospital, &c.

20. If any woman is convicted of and imprisoned for the offence of quitting a hospital without being discharged, or of refusing or neglecting while in a hospital to conform to the regulations thereof as aforesaid, the certificate of the visiting surgeon under which she was detained in the hospital shall continue in force, and on the expiration of her term of imprisonment she shall be sent back from the prison to that hospital, and shall (notwithstanding anything in this Ordinance) be detained there under that certificate as if it were given on the day of the expiration of her term of imprisonment, unless the surgeon or other medical officer of the prison, or a visiting surgeon appointed under this Ordinance, at the time of her discharge from imprisonment certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), and in that case the certificate under which she was detained, and the order subjecting her to periodical examination, shall, on her discharge from imprisonment, cease to operate.

Penalty on woman discharged uncured conducting herself as prostitute.

21. If on any woman leaving a hospital a notice in writing is given to her by the medical officer of the hospital to the effect that she is still affected with a contagious disease, and she is afterwards in any place for the purpose of prostitution without having previously received from a visiting surgeon appointed under this Ordinance a certificate in writing endorsed on the notice or on a copy thereof certified by the medical officer of the hospital (proof of which certificate shall lie on her), to the effect that she is then free from a contagious disease, she shall be guilty of an offence against this Ordinance, and on conviction shall be liable to be imprisoned, with or without hard labour, in the case of a first offence for any term not exceeding one month, and in the case of a second or any subsequent offence for any term not exceeding three months.

Duration of Order.

Order to operate whenever woman is resident in any place where order made, &c.

22. Every order under this Ordinance subjecting a woman to periodical medical examination shall be in operation and enforceable, in manner in this Ordinance provided, as long as and whenever from time to time the woman to whom it relates is resident within the limits of the place to which this Ordinance applies wherein the order was made, or within five miles of those limits, but not in any case for a longer period than one year; and where the medical officer of a hospital, on the discharge by him of any woman from the hospital, certifies that she is free from a contagious disease (proof of which certificate shall lie on her), the order subjecting her to periodical medical examination shall thereupon cease to operate.

Relief from Examination.

Application for relief from examination.

23. If any woman subjected to a periodical medical examination under this Ordinance (either on her own submission or under the order of a police magistrate), desiring to be relieved therefrom

and not being under detention in a hospital, makes application in writing in that behalf to the police magistrate, the magistrate shall appoint by notice in writing a time and place for the hearing of the application, and shall cause the notice to be delivered to the applicant, and a copy of the application and of the notice to be delivered to the superintendent of police.

Order for relief from examination on discontinuance of prostitution, &c.

24. If on the hearing of the application it is shown to the satisfaction of the magistrate that the applicant has ceased to be a common prostitute, or if the applicant, with the approval of the magistrate, enters into a recognizance, with or without sureties, as to the magistrate seems meet, for her good behaviour during three months thereafter, the magistrate shall order that she be relieved from periodical medical examination.

Forfeiture of recognizance by return to prostitution.

25. Every such recognizance shall be deemed to be forfeited if at any time during the term for which it is entered into the woman to whom it relates is (within the district to which this Ordinance applies) in any public thoroughfare, street, or place for the purpose of prostitution, or otherwise (within that district) conducts herself as a common prostitute.

Penalties for harbouring, &c.

Penalties for permitting prostitute having contagious disease to resort to any house, &c. for prostitution.

26. If any person, being the owner or occupier of any house, room, or place within the district to which this Ordinance applies, or being a manager or assistant in the management thereof, having reasonable cause to believe any woman to be a common prostitute, and to be affected with a contagious disease, induces or suffers her to resort to or be in that house, room, or place for the purpose of prostitution, he shall be guilty of an offence against this Ordinance, and on conviction thereof before the police court of such district (such court being hereby empowered to try such cases) shall be liable to a penalty not exceeding twenty pounds, or at the discretion of the court to be imprisoned for any term not exceeding six months, with or without hard labour: Provided that a conviction under this Ordinance shall not exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a bawdy house, or disorderly house, or for the nuisance thereby occasioned.

Miscellaneous.

Abuse of authority.

27. If any officer of police shall wantonly or maliciously exercise any power or authority confided to him by this Ordinance, or shall in any way wilfully exceed his power or authority, he shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Proceedings under this Ordinance to be in conformity with police court laws.

28. All proceedings under this Ordinance before and by police magistrates shall be had in conformity with the Ordinances and rules relating to police courts, save that the room or place in which a magistrate sits to inquire into the truth of the statements contained in any information or application under this Ordinance against or by a woman shall not, unless the woman so desires, be deemed an open court for that purpose; and unless the woman

otherwise desires, the magistrate may in his discretion order that no person have access to or be or remain in that room without his consent or permission.

Forms in schedule to be used.

29. The forms of certificates, orders, and other instruments given in the schedule to this Ordinance, or forms to the like effect, with such variations and additions as circumstances require, may be used for the purpose therein indicated, and according to the directions therein contained, and instruments in those forms shall (as regards the form thereof) be valid and sufficient.

Instruments may be in print, &c.

30. Any certificate, order, notice, or other instrument made or issued for the purposes of this Ordinance may be partly in print and partly in writing.

Presumption as to signatures of magistrates, &c.

31. In any proceeding under this Ordinance, any notice, order, certificate, copy of regulations, or other instruments purporting to be signed by a police magistrate, superintendent of police, inspector of hospitals, visiting surgeon, or the medical officer of a prison, or of a hospital, or by any person in Her Majesty's service, shall on production be received in evidence, and shall be presumed to have been duly signed by the person and in the character by whom and in which it purports to be signed, until the contrary is shown.

Mode of service.

32. Every notice, order, or other instrument by this Ordinance required to be served on a woman shall be served by delivery thereof to some person for her at her usual place of abode, or by delivery thereof to her personally.

Limitation of actions.

33. Any action or prosecution against any person for anything done in pursuance or execution or intended execution of this Ordinance shall be commenced within three months after the thing done, and not otherwise.

Notice of action.

34. Notice in writing of every such action and of the cause thereof shall be given to the intended defendant one month at least before the commencement of the action.

SCHEDULE OF FORMS.

INFORMATION.

To wit.

The information of *C.D.* of inspector of police for under the Contagious Diseases Ordinance, 1867, taken this day of 18 , before the police court of who says he has good cause to believe that *A.B.* is a common prostitute, and is resident within the limits of a place to which the said Ordinance applies, that is to say, at in of (*or* is a common prostitute, and being resident within five miles of a place to which the said Ordinance applies, that is to say, at in of was within fourteen days before the laying of this information, that is to say, on the day of , within

those limits, that is to say, at in of for the purpose of prostitution).

Taken and sworn before me the day and year first above mentioned.

(Signed) *L.M.*

NOTICE FOR ATTENDANCE OF WOMAN.

To *A.B.* of

Take notice, that an information, a copy whereof is subjoined hereto, has been laid before the police court of , and that, in accordance with the provisions of the Ordinance therein mentioned, the truth of the statements therein contained will be inquired into, at , on the day of at o'clock in the noon.

You are therefore to appear before such court and time, and to answer to what is stated in the said information.

You may appear yourself, or by any person on your behalf. If you do not appear you may be ordered, without further notice, to be subject to a periodical medical examination by the visiting surgeon under the said Ordinance.

If you prefer it, you may, by a submission in writing signed by you in the presence of the superintendent of police (*or as the case may be*), and attested by him, subject yourself to such a periodical examination.

If you do so before the time above appointed for your appearance, it will not be necessary for you to appear then before this court.

Dated this day of

(Signed) *L.M.*

(*Subjoin copy of information.*)

ORDER SUBJECTING WOMAN TO EXAMINATION.

In pursuance of the Contagious Diseases Ordinance, 1867, I, police magistrate of do order that *A.B.* of , be subject to a periodical medical examination by the visiting surgeon for , for calendar months from this day, for the purpose of ascertaining at the time of each such examination whether she is affected with a contagious disease within the meaning of the said Ordinance, and that she do attend for the first examination at on the day of at o'clock in the noon.

(Signed) *L.M.*

VOLUNTARY SUBMISSION TO EXAMINATION.

The Contagious Diseases Ordinance, 1867.

I, *A.B.* of , in pursuance of the above-mentioned Ordinance, by this submission voluntarily subject myself to a periodical medical examination by the visiting surgeon for or calendar months from the date hereof

Dated this day of 18

(Signed) *A.B.*

Witness.
X.Y.
Inspector of police for (*or as the case may be*).

NOTICE BY VISITING SURGEON TO WOMAN OF TIMES, &c. OF EXAMINATION.

To *A.B.* of

Take notice, that in pursuance of the Contagious Diseases Ordinance, 1867, you are required to attend for medical examination as follows:

(*Here state times and places of examination.*)

Dated this day of 18

(Signed) *E.F.*
Visiting Surgeon for

CERTIFICATE OF VISITING SURGEON.

In pursuance of the Contagious Diseases Ordinance, 1867, I hereby certify that I have this day examined *A.B.* of , and that she is affected with a contagious disease within the meaning of that Ordinance; and the hospital in which she is to be placed under the said Ordinance is the hospital.

Dated this day of 18

(Signed) *E.F.*
Visiting Surgeon for

ORDER OF INSPECTOR OF HOSPITALS FOR TRANSFER.

By virtue of the power in this behalf vested in me by the Contagious Diseases Ordinance, 1867, I hereby order that *A.B.* of , now detained under that Ordinance in the hospital of . for medical treatment, be transferred thence to the hospital of

Dated this day of 18

(Signed) *M.N.*
Inspector of Hospitals.

Contagious Diseases.

CERTIFICATE FOR DETENTION BEYOND THREE MONTHS.

The Contagious Diseases Ordinance, 1867.

We, the undersigned, hereby certify that the further detention for medical treatment of *A.B.* now an inmate of this hospital, is requisite.

Dated this day of 18, at the hospital.

(Signed) *M.N.*
Inspector of Hospitals
(*or as the case may be*).
G.H.
Medical Officer.

DISCHARGE FROM HOSPITAL.

In pursuance of the Contagious Diseases Ordinance, 1867, I hereby discharge *A.B.* of from this hospital (*add according to the fact*, and certify that she is now free from a contagious disease).

Dated this day of 18 , at the hospital.

(Signed) *G.H.*
Medical Officer.

CERTIFICATE ON DISCHARGE FROM IMPRISONMENT.

The Contagious Diseases Ordinance, 1867.

Whereas under the above-mentioned Ordinance *A.B.* of was on the day of convicted of the offence of and has since been imprisoned for that offence in the gaol of and is now discharged from imprisonment therein ; now in pursuance of the said Ordinance I hereby certify that she is now free from a contagious disease.

Dated this day of

R.O.
Surgeon of the gaol of
(*or E.F.*, Visiting Surgeon for

NOTICE TO WOMAN LEAVING HOSPITAL.

The Contagious Diseases Ordinance, 1867.

To *A.B.*

As you are now leaving this hospital, I hereby, in pursuance of the above-mentioned Ordinance, give you notice that you are still affected with a contagious disease.

Dated this day of

(Signed) *G.H.*
Medical Officer.

NOTE.—The above-mentioned Ordinance provides as follows :

" If on any woman leaving a hospital a notice in writing is given to her by the medical officer of the hospital to the effect that

she is still affected with a contagious disease, and she is afterwards in any place for the purpose of prostitution without having previously received from a visiting surgeon appointed under this Ordinance a certificate in writing endorsed on the notice or on a copy thereof certified by the medical officer of the hospital (proof of which certificate shall lie on her), to the effect that she is then free from a contagious disease, she shall be guilty of an offence against this Ordinance, and on conviction shall be liable to be imprisoned, with or without hard labour, in the case of a first offence for any term not exceeding one month, and in the case of a second or any subsequent offence for any term not exceeding three months."

Certificate on last foregoing Notice or Copy.

In pursuance of the within-mentioned Ordinance, I hereby certify that the within-mentioned woman is now free from a contagious disease.

Dated this day of .

(Signed) *E.F.*
Visiting Surgeon for

Application to be relieved from Examination.

To the police court of

I, *A.B.* of , being in pursuance of the Contagious Diseases Ordinance, 1867, subject to a periodical medical examination on my own submission (*or* under the order of *L.M.*, Esq., *as the case may be*), dated the day of , do hereby apply to be relieved therefrom.

Dated this day of 18 .

(Signed) *A.B.*

Witness,
G.W.

11th December 1867.

196.

No. 18 of 1867.

An Ordinance relating to the Registration of Births and Deaths.

Preamble

Whereas it is expedient to amend the Ordinance No. 13 of 1862, entitled "An Ordinance for the Registration of Births and Deaths," and provide the means for a complete register of the

births and deaths of Her Majesty's subjects in Ceylon: It is enacted as follows:

1. This Ordinance may be cited as the "Births and Deaths Registration Ordinance, 1867." Short title.

2. Has had its effect.

3. Repealing clause.

I.—*Department.*

4. For the purpose of this Ordinance, the Registrar General, the provincial registrars, and the district registrars of marriages, shall also respectively be and act as Registrar General, provincial and district registrars of births and deaths; and the division of each province of this Island into districts for the registry of marriages shall also form the division for the registry of births and deaths, as herein-after provided. Registrar General, provincial and district registrars of marriages, also to register births and deaths.

5. Every district registrar shall dwell in such places as the Registrar General shall appoint, and shall cause his name, with the addition of registrar for the district for which he shall be appointed, to be placed in some conspicuous place on or near the outer door of the house appointed by the Registrar General as the office of the registrar of that district, in the English, Singhalese, and Tamil languages. Registrar to dwell within his district, &c.

II.—*Rules.*

6. It shall be lawful for the Governor, with the advice of the Executive Council, to make rules for the direction of the said Registrar General, provincial registrars, and district registrars in the discharge of their duties, and for the maintenance of such officers and establishments as may be necessary thereunto. Rules for the direction of the officers.

7. The Registrar General, provincial registrar, and district registrars shall keep books for the several purposes of this Ordinance, of such form and material as shall at any time hereafter be directed by the Governor, with the advice of the Executive Council, and such books shall be at no time out of their possession. Registrars to keep books.

8. The Registrar General shall cause certificates of births and deaths sent to him to be filed in two general books, one a general register of births, and the other a general register of deaths, and he shall cause abstracts and indices of the two general registers to be made and kept in his office. General register of births and deaths.

III.—*Past Births.*

9. Every district registrar shall be authorized, and is hereby required, to keep a register of births which shall have taken place prior to the date of this Ordinance. Persons desiring to have such births as shall have taken place from and after the first day of January 1863 inserted in such register shall, within two years from the date that this Ordinance shall come into operation, furnish the registrar with a statement, written on a paper bearing the stamp of sixpence, of the births to be registered substantially in the form and with the particulars required in schedule A. to this Ordinance annexed, and followed by a declaration of the party that Registrar to register past births. Births since 1863.

Births before 1863.

the statement is true and correct. The said registrar shall enter in the register aforesaid the contents of such statement. If any birth shall have taken place before the last-named date which, without fault of the parties entitled to cause the same to be registered, may have been omitted to be registered, or may have been erroneously registered, it shall be lawful to any of such parties, or in case of their death, to any of their issue, or other lawful representative, within two years from the date on which this Ordinance shall come into operation, to apply in writing, on a paper bearing a stamp of sixpence, to the commissioner of the court of requests having jurisdiction over the district within which the birth took place to have such birth properly registered; and the commissioner of such court shall cause the Registrar General and the district registrar, and such other parties as to him shall appear expedient, to be noticed to show cause why such application should not be granted. If no sufficient cause be shown to the contrary, and the court shall be satisfied after hearing such evidence as the parties may have it in their power to adduce that such birth has been proved, and that it is no fault of the said party that the same had not been registered, it shall certify the same to the Registrar General, who shall cause such birth to be duly registered substantially in the form and with such particulars thereof as are contained in the said schedule A., and which said particulars it shall be the duty of the party applying to furnish in his application.

IV.—*Future Births.*

Registrars to inform themselves of births and deaths.

10. Every district registrar shall be authorized, and is hereby required, to inform himself carefully of every birth and every death that shall happen in his district after the commencement of this Ordinance, and to learn and register, as soon after the event as conveniently may be, the particulars required to be registered according substantially to the forms A. and B. in the schedule respectively, touching every such birth or every such death, as the case may be, which shall not have been already registered, every such entry being made in order from the beginning to the end of the book; and he shall also register the said particulars in the counterfoil certificate, and then separate the certificate from the register book, and transmit the same by the next convenient post or opportunity to the Registrar General; and if no birth or death shall have been registered during any calendar month, the said registrar shall at the end of that month certify such fact under his hand, and such certificate shall be transmitted as aforesaid; and the said registrar shall keep the register books safe.

Parents and others to give notice of births.

11. The father or mother of every child born in Ceylon after the commencement of this Ordinance, or in case of the death, illness, absence, or inability of the father and mother, the occupier or an inmate of the house in which such child shall have been born, shall, within three months next after the day of every such birth, give information to the district registrar, according to the

best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the birth and name of such child.

12. For the purposes of this Ordinance the master or keeper of every gaol, prison, hospital, lunatic asylum, or public or charitable institution, shall be deemed the occupier thereof.

Keepers of gaols deemed occupiers.

13. After the expiration of three months following the day of the birth of any child, subsequent to the commencement of this Ordinance, it shall not be lawful for any district registrar to register such birth: Provided that, in case the birth of any child shall not have been registered according to the provisions herein-before contained, it shall be lawful for any person present at the birth of such child, or for the parent or guardian thereof, at any time within two years next after the birth, to make a solemn declaration before the commissioner of the court of requests of the district in which such registration should take place, of the particulars required to be known touching such birth and name, according to the best of his knowledge and belief, and it shall thereupon be lawful for the said commissioner to issue a certificate of the said declaration, on a stamp of two shillings; and the said registrar shall, on production of such certificate, register the birth of the said child according to the information of the person making the said declaration, and shall sign the same; and no register of births shall be given in evidence to prove the birth wherein it shall appear that three months have intervened between the day of the birth and the day of the registration of the birth of such child, unless such certificate shall be attached thereto; and every person who shall knowingly register or cause to be registered the birth of any child otherwise than herein-before is last mentioned, after the expiration of three months following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding twenty pounds.

As to registry after the expiration of three months from the birth of the child.

14. After two years following any birth which shall have taken place after the commencement of this Ordinance no registrar shall register such birth, and no register of births shall be given in evidence to prove the birth of any child in Ceylon wherein it shall appear that two years have intervened between the birth and the registration of such child; and every person who shall knowingly register or cause to be registered any birth after two years from the day of the birth, shall forfeit and pay for every such offence a sum not exceeding twenty pounds.

Births not to be registered after two years.

15. If any child born in Ceylon whose birth shall have been registered as aforesaid shall, after it shall have been so registered, have any name given to it, the parent or guardian of such child, or other person procuring such name to be given, may, within fourteen days after such name shall have been given, and not more than six months after the birth of the child, procure and deliver to the registrar in whose custody the register of the birth of the child may then happen to be, a statement setting out the particulars of the birth of the child according to the form A. in the schedule, with the name given to such child, and the said registrar shall enter forthwith such name in the statement already registered of

Name given afterwards to the child may be registered.

the birth of such child, and certify the same to the Registrar General.

Registrar may call for marriage certificate.

16. It shall be competent to the registrar, if he shall see reason to doubt the legitimacy of any child whose birth he may have to register, or to apprehend that a fraud is about to be committed on any party by any registration, to call for a certificate of the registry of the marriage of the alleged parents of the child. If no certificate be produced, or the absence thereof be not duly accounted for, it shall be the duty of the registrar to enter in the column set apart for that purpose that such certificate has not been produced or accounted for, and the nature briefly of the explanation given in respect thereof, and to give to the parties who shall have applied for the registration a copy of such entry. The registrar shall also give notice of such entry to the parties whose rights are likely to be affected by the registration.

Remedy to persons interested in any registration or entry.

17. Any person who may have an interest in the property of the alleged parents of a child whose birth may be registered, or who shall feel aggrieved by any such entry as is in the preceding section prescribed, shall be entitled to apply to the district court of the district within which the registry may be kept, to cause such registration or entry to be rectified; and the judge of such court shall cause the Registrar General, and the registrar of the district, and such other parties as to him shall appear expedient, to be noticed to show cause why such application shall not be granted, and after hearing the parties and their witnesses shall make such order thereon as the justice of the case shall seem to require; and the district court shall cause a certified copy of the order to be served on the Registrar General, who shall cause the registration or entry to be rectified accordingly. All orders made by a district court under this section shall be subject to appeal: Provided that nothing herein contained shall be held to prevent any person from questioning in due course of law the correctness of any registration or entry, though he shall not have betaken himself, in the first instance, to the summary remedy herein provided.

V.—*Deaths.*

Some person present at the death, or occupier of the house, required to give particulars of death, so far as known.

18. The nearest male relative present at the death or attending the last illness of any person dying in Ceylon, or in case none such shall be present the occupier of the house or tenement, or, if the occupier shall be the person who shall have died, some inmate of the house or tenement in which such death shall have happened, or (in case such death shall have happened in any estate or plantation) the superintendent for the time being of such estate or plantation, shall, within eight days next after the day of such death, give information to the district registrar, according to the best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person.

Constables and headmen to give registrar notice of deaths.

19. It shall be the duty of all police and peace officers and officers of the law, and headmen, to inquire into every death within their respective districts, localities, and villages, and to give notice thereof to the district registrar, and also respecting the

aforesaid person present at the death or in attendance during the last illness of any deceased person, or respecting the occupier aforesaid, or the inmate aforesaid, as the case may require.

Constable and headmen failing to give notice to be punished.

20. Any police and peace officer, officer of the law, or headman, who shall have for that purpose been informed of any death, and who shall neglect to report the same within forty-eight hours to the district registrar, unless prevented by the impassability of the roads or other unforeseen circumstance, shall be liable to a fine not exceeding forty shillings; and every person liable to report deaths under sections 18 and 19 who shall wilfully omit to report any which shall have taken place shall be liable to a fine not exceeding five pounds: Provided that it shall be lawful for such person to make such report by writing in a letter sent through the post or otherwise.

Registrar to give notice to the proper person to furnish information.

21. Every district registrar, within three days of receiving any report of death from police or peace officer of the law or headman, or being otherwise informed of any death, shall give notice to the person liable to give information touching the death to furnish, within four days from the time of his being so called upon, such information at the office of the said registrar.

Penalty for not giving notice or furnishing information.

22. Any district registrar neglecting to issue such notice in the manner aforesaid, or any person neglecting or refusing to give information as aforesaid, after notice so to do, shall be liable to a fine not exceeding five pounds.

Coroners to inform registrar.

23. In every case in which an inquest shall be held on any dead body, the jury shall inquire into the particulars herein required to be registered concerning the death, and the coroner shall inform the district registrar of the finding of the jury, and the said registrar shall make the entry accordingly.

VI.—*Miscellaneous.*

Register to be signed by the informant.

24. Every person by whom the information contained in any register of births or deaths under this Ordinance shall have been given shall sign in the register a statement of his name, description, and place of abode. If such person cannot conveniently attend the office of the district registrar, it shall be competent to him to send a declaration setting out that he is the informant, and giving his name, description, and place of abode. The said registrar shall then certify those particulars in the registry, and shall preserve the declaration forwarded to him. No register of births or deaths according to this Ordinance shall be given in evidence which shall not be signed by some person professing to be the informant, or shall be certified by the registrar as aforesaid, and to be such party as is herein required to give information to the district registrar.

Searches may be made, and certificates may be given by registrars.

25. The district registrar shall at all reasonable times, upon an application written on a stamp of sixpence, allow search to be made of any birth or death register book in his keeping, and shall give a copy, certified under his hand, of any entry in the same, upon payment to him for every search and extract of such fee as the Governor, with the advice of the Executive Council, may from time to time direct.

Searches at and copies from the General Register office.

26. Every person shall be entitled, on an application to be written on a stamp of the respective values herein-after mentioned, to search the abstracts and indices in the Registrar General's office, or any thombo or register in his the said Registrar General's keeping, or in the keeping of any provincial registrar, at all reasonable times, and to have a certified copy (under the hand of the Registrar General or provincial registrar, or any of their assistants) of any entry therein; and every application for a general search shall be on a stamp of five shillings, and for every particular search for any given year on a stamp of one shilling, and every certified copy of an entry shall be on a stamp of one shilling.

Certificate to be *primâ facie* evidence.

27. All copies of entries purporting to be certified by the Registrar General shall be received as *primâ facie* evidence of the birth or death to which the same relates, without any further or other proof of such entry.

Penalty for wilfully giving false evidence.

28. Every person who shall make or cause to be made, for the purpose of being inserted in any register of births or deaths, any false statement touching any of the particulars herein required to be known and registered, shall be subject to the same pains and penalties as if guilty of perjury.

Penalty for not duly registering births and deaths, and for losing or injuring the registers.

29. Every registrar who shall refuse, or without reasonable cause omit, to register any birth or death of which he shall have had due notice as aforesaid, and every person having the custody of any register book, or any part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured, whilst in his keeping, shall forfeit a sum not exceeding twenty pounds for every such offence.

Penalty for destroying or falsifying register books.

30. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such register book or part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such register book, or shall wilfully insert, or cause to be inserted, in any register book, or shall sign any false entry of any birth or death, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract from any register book, knowing the same to be false in any part thereof, shall be guilty of an offence, and shall be liable to transportation, or imprisonment with or without hard labour.

Accidental errors may be corrected.

31. No registrar who shall discover any error to have been committed in the form and substance of any entry shall be liable to any of the penalties aforesaid, if within one calendar month next after the discovery of such error he shall correct the erroneous entry according to the truth of the case, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the date when such corrections shall be made, and immediately notify such correction to the Registrar General: Provided that such corrections shall be made in the presence of the parents of the child whose birth may have been so registered, or the parties aforesaid, or of two persons attending upon any person in his or her last illness whose death may have been so registered, or on the evidence of two credible witnesses, and in the presence of the nearest commissioner of the court of requests.

SCHEDULE.

A.

The words and figures in *italics* in the schedules to be filled up as the case may be.

1868.—Births in the District of in the Province.

No.	When born.	Name, (if any).	Sex.	Name of the father.	Name and maiden name of mother.	Rank or profession of father.	Parents, if married. *	Signature, description, and residence of informant.	When registered.	Informant.	Signature of registrar.

* Marriage of parents registered at on (*or* publication of banns registered under Regulation 9 of 1822, *or as briefly as any other way in which the marriage is alleged to have taken place*), *or*, parents admitted not to have married; *or*, certificate not produced or accounted for. Explanation simply, lost. *Or*, father married to sister of the mother of the child.

B.

1868.—Deaths in the District of in the Province.

No.	When died.	Name in full.	Sex.	Age.	Rank or profession.	Cause of death.	Signature, description, and residence of informant.	When registered.	Informant.	Signature of registrar.
17	*4th Feb.*	*William Green.*	*Male.*	43	*Carpenter.*	*Dysentery.*	*Rebecca Green, Widow, Trincomalee Street, Kandy.*	*6th Feb.*	*Rebecca Green.*	*John Vandort, Registrar.*

11th December 1867.

197.

No. 19 OF 1867.

An Ordinance to restrict the Use of Opium and Bang.

Preamble.

WHEREAS it is expedient to restrict the use of opium and bang, and to prohibit the sale thereof except by duly licensed persons: It is enacted as follows:

1. Has had its effect.

Interpretation clause.

2. For the purposes of this Ordinance the words "opium" or "bang" shall include any preparation in which opium or bang respectively forms a component part.

Sale of opium or bang without license prohibited.

3. From and after the time that this Ordinance shall come into force in any place, it shall not be lawful for any person in such place to possess opium in any quantity beyond two pounds in weight, or to sell by wholesale or retail, or to offer or expose for sale, or to suffer or permit to be sold, opium or bang without licenses authorizing such possession or sale: Provided that nothing herein contained shall be held to prevent any medical practitioner, chemist, or druggist, from selling or retailing opium or bang *bonâ fide* for medicinal purposes, the burden of proof whereof shall be upon any person alleging the same in his defence.

Proviso.

Who may grant licenses.

4. The Government Agent of the province is hereby empowered to grant licenses for the possession of any quantity of opium beyond two pounds in weight, or for the sale of opium or bang in any quantity, except where such licenses refer to any town where a municipality shall have been established, in which case the licenses shall be granted by the chairman of the municipal council. Such licenses shall be substantially of the form in the schedules provided, with such alterations and additions as the circumstances require, and shall have force from the day on which they are granted till the thirty-first day of December in the same year, and shall specify the place where, and the conditions upon which, the same shall be granted. A fee of one pound shall be payable for a license to possess opium beyond two pounds in weight, and of three pounds for a license to sell opium or bang, which fee shall form part of the municipal fund where such license shall be granted by the chairman of the municipal council, otherwise it shall be payable into the public treasury.

Contents thereof.

Duration of license.

Fee for license.

Revocation of licenses.

5. It shall be lawful for the Government Agent or chairman granting such licenses to revoke the same, whenever it shall appear expedient to such Government Agent or to the municipal council to do so.

Penalty for breach.

6. Any person possessing opium beyond the prescribed quantity, or selling opium or bang by wholesale or retail, or offering the same for sale, or suffering or permitting it to be sold, without a license, or in any place other than that named in the license, or in any way contrary to the tenor thereof, shall be guilty of an offence, and be liable on the first conviction to a fine not exceeding five pounds, and to imprisonment not exceeding three months, with or without hard labour; and for every subsequent offence to a fine not exceeding ten pounds, and to imprisonment not exceeding six months, with or without hard labour.

7. It shall be lawful for any police officer or municipal inspector, without a warrant, to enter and inspect shops and places for the sale of opium or bang, or, upon a warrant, any place in which there shall be reasonable cause for suspicion that opium is kept without a license, or that the illicit sale of opium or bang is being carried on, and to seize any opium or bang which may be found therein, and the vessels holding the same, and to take into custody the persons suspected to be concerned in the sale of such opium or bang. It shall be lawful for the police magistrate or bench of magistrates, having jurisdiction in the district where such seizure shall have taken place, to cause the opium or bang, or vessel holding the same, to be sold, and the proceeds thereof paid into the Treasury or to the municipal fund, as the case may be.

Search into shops or places where opium or bang is sold.

Seizure.

Magistrate may order opium or bang seized, and vessels containing the same, to be sold.

8. It shall be lawful for the police magistrate, or bench of magistrates, before whom any person shall be convicted for the breach of an offence created by this Ordinance, to direct a portion of the fine actually recovered and realized, not exceeding one half, to be paid to the informer.

Informer's share.

SCHEDULE.

LICENSE TO POSSESS OPIUM.

I Government Agent of the province (*or* Chairman of the Municipal Council of *as the case may be*) do hereby license to possess in any quantity not exceeding lbs. at (*describe the place where the opium may be kept or possessed*).

Given at this day of

A.B.

Government Agent, *or* Chairman of, *&c.*

LICENSE TO SELL OPIUM OR BANG.

I Government Agent of the province (*or* Chairman of the Municipal Council, *as the case may be,*) do hereby license to sell opium or bang at the shop No. situated at under the following conditions (*describe conditions, if any*).

Given at this day of

C.D.

Government Agent, *or* Chairman of *&c.*

18th December 1867.

198.

No. 20 OF 1867.

An Ordinance to provide for the Validity of certain Marriages solemnized and registered by Bogahakumbure Disanayaka Mudiyanselage Appuhami, and to indemnify him from penal consequences.

Preamble.

WHEREAS by the Ordinance No. 13 of 1859, entitled "An "Ordinance to amend the Laws of Marriage in the Kandyan "Provinces," it is provided that the Governor shall appoint such persons as he should think fit to be the registrars of the districts into which the Kandyan provinces were to be divided for the purposes of registration under that Ordinance: And whereas Bogahakumbure Disanayaka Mudiyanselage Punchirala was appointed by the Governor registrar for the district of Wiyaluwa in the Central Province: And whereas, during the illness of the said Bogahakumbure Disanayaka Mudiyanselage Punchirala, his brother, Bogahakumbure Disanayaka Mudiyanselage Appuhami, was allowed by the then assistant agent of Badulla on the 9th day of August 1864 to act as registrar aforesaid, and he has acted as such registrar at various times since that date: And whereas, owing to inadvertence, the name of the said Bogahakumbure Disanayaka Mudiyanselage Appuhami was never formally submitted to the Governor for approval, so that he was not duly appointed by the Governor as registrar of Wiyaluwa, as is by the said Ordinance required: And whereas the said Bogahakumbure Disanayaka Mudiyanselage Appuhami, being advised and *bonâ fide* believing that he was qualified to act as registrar, solemnized and registered several marriages during the times he so acted as aforesaid: And whereas it is expedient to remove all doubts as to the validity of such marriages, and to indemnify the said Bogahakumbure Disanayaka Mudiyanselage Appuhami from all penal consequences: It is therefore hereby enacted as follows:

Marriages solemnized by the said person declared valid.

1. That all marriages solemnized before and registered by the said Bogahakumbure Disanayaka Mudiyanselage Appuhami, and which said marriages, with the dates and particulars thereof, are given in the schedule hereto annexed, have been, are, and shall be valid and good to all intents and purposes as if the said Bogahakumbure Disanayaka Mudiyanselage Appuhami had been duly appointed registrar, as is by the said Ordinance required, prior to the said marriages having been solemnized before and registered by him: Provided, however, that nothing herein contained shall be held to prevent parties questioning the said marriages on grounds other than the non-appointment of the said Bogahakumbure Disanayaka Mudiyanselage Appuhami, and on which said other grounds the court before which the question shall arise shall determine as if this Ordinance had not been passed.

Proviso.

Validity of certain Marriages.

2. The said Bogahakumbure Disanayaka Mudiyanselage Appuhami shall be and is hereby indemnified, freed from and against all penalties, forfeitures, and disabilities whatsoever (if any) incurred or to be incurred by him for or by reason of any infringement by him of the provisions of the said Ordinance or any other Ordinance relating to Kandyan marriages by acting as a registrar of marriages thereof.

The said person indemnified from all penal consequences.

3. Provided, however, that nothing herein contained shall affect the rights of Her Majesty, her heirs and successors, and of all bodies politic and corporate, and of all other persons, excepting those at whose instance or for whose special benefit this Ordinance has been passed, and those claiming by, from, through, and under them.

Saving clauses.

Validity of certain Marriages.

SCHEDULE.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No. 13 of 1859.
15	1865, August 24	Alutgedara Karunátilaka Disánáyaka Mudiansélágé Seyátro Gammahé of Tundáwelagama and Kúrawatura Rájapaksa Mudiyansélége Kumárihámi.	Old.
16	" "	Idangedara Wikkramasinha Disánáyaka Mudiyansélágé Hámi Gammahé of Bópitiyegama and Idangedara Maliyedde Karunatilaka Disanayaka Mudiyanselage Kirimenika of do.	Old.
17	" "	Bógaha Kumburegedara Tilakasinha Wijayaratna Disanayaka Mudiyanselage Gametirale of Bógaha Kumburegama and Bógaha Kumburegedara Wikkramasinha Disanayaka Mudiyanselége Bópitiye Ukku Menika of do.	Old.
18	1866, November 21	Alakolawattégedara Ratnáyaka Mudiyanselage Appuhami of Medamáliyaddegama and Medamaliayaddegedara Kuma of do.	New.
19	1867, April 20	Lunuatugedara Ratnáyaka Mudiyanselége Appuhámi Gammahe of Bokanoruwagama and Ratnáyaka Mudiyanselage Hatkinda Kiri Menika of do.	Old.
20	" 27	Kóngahawattegedara Mannappéru Mudiyanselage Danturala of Kubukwalagama and Kóngahawattegedara Wírasinha Mudiyanselage Rammenika of do.	Old.
21	" "	Kóngahawattegedara Mannappéru Mudiyanselage Kiriwante of Kubukwalagama and Yaddehigedara Mutu Menika of do.	Old.
22	" "	Kóngahawattegedara Ekanayaka Mudiyanselége Hámi of Kubukwalagama and Kóngahawattegedara Mannappéru Mudiyanselage Punchi Menika of do.	Old.
23	" "	Kóngahawattegedara Ekanayake Mudiyanselage Gametirale of Kubukwalagama and Lunuatugedara Kuma of Kohana.	New.
24	" 28	Lunuatugedara Ratnayaka Mudiyanselage Hami of Bokanoruwa and Lunuatugedara Kelaniye Bandara Nayake Wijayasúriya Abayakón Mudiyanselage Gamagedara Rammenika of do.	Old.

25	„	„	Lunuatugedara Ratnayaka Mudiyanselage Gametirale of Bokanoruwagama and Lunuatugedara Wijayakon Mudiyanselage Kuruellegedara Mutumenika of do.	Old.
26	„	„	Gamagedara Kelaniye Bandára Nayaka Wijayasúriya Abayakon Mudiyanselage Appuhami of Galaudagama and Kirndegedara Kónúra Mudiyanselage Meda Máliyadde Dingiri Menika of do.	Old.
27	„	„	Lunuatugedara Ratnayake Mudiyanselage Appuhami of Bokanoruwagama and Liyadipitiyegedara Ratnayaka Mudiyanselage Hudu Etana of do.	Old.
28	„	„	Gamagedara Kelaniye Bandara Nayaka Wijayasúriya Abayakón Mudiyanselage Kiriwante of Galaudagama and Lunuatugedara Ratnayaka Mudiyanselage Ukku Menika of do.	New.
29	„	„	Meda Kumburegedara Aiyappadi Mudiyanselage Punchirala of Galaudagama and Welampíllégedara Wirasinha Mudiyanselage Kalu Menika of do.	Old.
30	„	„	Héwannilegedara Apareka Rajapaksa Mallika Mudiyanselage Siyatu of Kiriwana Ellegama and Wirahamadagedara Rajapaksa Mudiyanselage Mutu Menika of do.	Old.
31	„	29	Iriyagaha Ulpotegedara Jayawardana Mudiyanselage Appuhami Gammahe of Dadayantalawegama and Gangodagedara Disanayake Mudiyanselage Rammenika of do.	Old.
32	„	„	Wakkumburegedara Nawaratna Mudiyanselage Hami Ela Gamarala of Wakkumburegama and Naketgedara Disanayake Mudiyanselage Lat Etana of do.	Old.
33	„	„	Wakkumburegedara Nawaratna Mudiyanselage Siyatu of Wakkumburegama and Wakkumburegedara Herat Mudiyanselage Ram Menika of do.	Old.
34	„	„	Wakkumburegedara Nawaratna Mudiyanselage Kiriwante of Wakkumburegedara and Wakkumburegedara Disanayake Mudiyanselage Kuma of do.	Old.
35	„	„	Idangedara Herat Mudiyanselage Wannakurala Elegamarala of Asseddumegama and Idangedara Rajapaksa Mudiyanselage Ram Menika of do.	New.
36	„	„	Nikapitiyegedara Samarakon Jayasundara Mallika Mudiyanselage Appuhami of Kiriwana Ellegama and Lunuatugedara Ratnayaka Mudiyanselage Kuma of do.	Old.

SCHEDULE—*continued.*

No. of Entry in the Marriage Register.	Date of Registration.		Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No 13 of 1859.
37	1867, April	29	Alutgedara Mallika Mudiyanselage Widane of Kiriwana Ellegama, and Uda Oye Alutgedara Rajapaksa Mudiyanselage Dingiri Menika of do.	New.
38	"	30	Watagodagedara Disanayaka Mudiyanselage Wásanahami of Watagodagama, and Watagodagedara Herat Mudiyanselage Malaka of do.	New.
39	"	"	Idangedara Bannayaka Mudiyanselage Punchirala of Wattewelagama, and Idangedara Samarakon Jayasundara Mallika Mudiyanselage Kuma of do.	Old
40	"	"	Weliarawegedara Appukutidewayalage Kuda Duraya of Talakumburegama, and Weliarawegedara Hudi of do.	Old
41	May	2	Tuppitiye Helawattegederekiriwante of Watagodagama, and Watagodagedara Ram Menika of do.	New.
42	"	"	Metihakkegedara Dasanayaka Mudiyanselage Kiriwante of Bópitiyegama, and Idangedara Wikkramasinha Disanayaka Mudiyanseláge Mutu Menika of do.	Old.
43	"	4	Tetille-pahalagedara A'barana Déweyálage Kudu Durayá of Galaudagama, and Tetillepahalagedara Karuná Deweyáláge Rattó of do.	New.
44	"	"	Kammalewattegedara Kondasinha Manamindrayalage Appu Naide of Galaudagama, and Palle Ellegedara Ukku Etana of do.	Old.
45	"	"	Tetillehelagedara Rajapaksa Iirisinha Siripatul Déweyalage Kaluhonda of Galaudagama, and Tetillehelagedara Wijayatunda Déweyálage Meniki of do.	Old.
46	"	"	Wetahiragallegedara Rammandá Déweyalage Déweya of Watagodagama, and Tennehénegedara Abarana Déwéyalage Lami of do.	New.
47	"	8	Kottalbaddagedara Ekanayaka Mudiyanselage Punchirala of Bopitigama, and Tennakon Mudiyanselage Dingiri Menika of Kansawattegedara in Dehiwinnipalata.	New.

Validity of certain Marriages.

48	"	"	Galkotuwegedara Sewukenda Mudiyanselage Appuhami of Kinahelagama, and Kalahakalawegedera Wikkramasinha Tilakaratna Mudiyanselage Ram Menika of do.	Old.
49	"	"	Idangedara Hérat Mudiyanselage Kiriwante of Asweddumegama, and Lunuatugedara Ratnayaka Mudiyanselage Mutu Menika of do.	New.
50	"	9	Lunuatugedara Ratnayaka Mudiyanselage Widane of Bokanoruwagama, and Yalpotagedara Ratnayake Mudianselage Kuma of do.	Old.
51	"	"	Lunuatugedara Ratnáyaka Mudiyanselage Banda of Bokanoruwagama, and Maussagollegedara Ratnayaka Mudianselage Ukku Menika of do.	Old.
52	"	"	Gamagedara Ratnayaka Mudiyanselage Siyatu of Bokanoruwagama, and Galkotuwegedara Ratnáyaka Mudiyanseláge Kiri Menika of do.	Old.
53	"	10	Siyambalagahawattegedara Wirasinha Rájapaksa Déwayálage Puncha of Yalkumburegama, and Agatakumburegedara Yamasinha Dewayalage Girawi of do.	Old.
54	"	"	Alutgedara Abhayakon Mudiyanselage Kiriwante of Galaudagama, and Dandukolagedara Ratnayaka Mudianselage Hin Menika of do.	New.
55	"	"	Alutgedara Abhayakon Mudiyanselage Herat Appu of Galaudagama, and Ketawala Kumburegedara Manutunga Mudiyanselage Kalu Menika of do.	New.
56	"	"	Ilukwelagedara Abhayakon Mudiyanselage Wannakurala of Galaudagama, and Alutgedara Abhayakon Mudiyanselage Dingiri Menika of do.	Old.
57	"	11	Pahalawelagedara Rajapaksa Mudiyanselage Appuhami of Bogahakumburegama, and Alakolagollegedara Hitihami Mudiyanselage Ram Menika of do.	Old.
58	"	"	Wattewelagedara Bannayaka Mudiyanselage Kiriwante of Wattewelagama, and Pahalawelagedara Rajapaksa Mudiyanselage Kuma of do.	Old.
59	"	"	Liyadipitiyegedara Bannayaka Mudiyanselage Rammalhami of Wattewelagama, and Pahalawelegedara Rajapaksa Bannayaka Mudiyanselage Mutu Menika of do.	Old.
60	"	13	Nikapitiyegedara Mallika Mudiyanselage Menikrala of Kiruwanaellagama, and Kottalbaddégedara Ekanayaka Mudiyanselage Ran Etana of do.	Old.

SCHEDULE—*continued.*

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No. 13 of 1859.
61	1867, May 13	Lunuatugedara Ratnáyaka Mudiyanseláge Hérathámi of Bokonoruwagama, and Velagedera Ratnáyaka Mudiyanseláge Mutu Menika of do.	Old.
62	„ „	Lunuatugedara Ratnayáka Mudiyanseláge Punchirala of Bokonoruwagama, and Kirindegedara Kónára Mudiyanseláge Máliyaddégedara Ram Menika of do.	New.
63	„ „	Metihakkégedara Dasanáyaka Mudiyanseláge Appuhami of Bópitiyegama, and Agalakumburégedara Aiyappádi Mudiyanseláge Hudu Etaná of do.	Old.
64	„ 15	Galkotuwégedara Sowukenda Mudiyanselage Kiriwante of Kinahelagama, and Idangedara Samarakón Mudiyanselage Mutu Menika of do.	New.
65	„ 16	Idangedara Samarakon Mudiyanselage Wasanahami of Bopitiyegame, and Migaha Ulpotegedere Sellappu Mudiyanseláge Kiri Menika of do.	Old.
66	„ „	Idangedara Samarakón Mudiyanselage Gametirala of Bópitiyegama, and Mígaspittiya Medagedara Tennakón Mudiyanselage Ram Menika of do.	Old.
67	„ „	Nikapitiyégedara Aparekke Rajapakse Mallika Mudiyanselage Kiriwante of Kiriwana Ellagama, and Idangedara Samarakón Mudiyanselage Kalu Menika of do.	New.
68	„ „	Wattéwelagedara Ratnayaka Mudiyanselage Punchirala of Wattéwelegama, and Bembiye Alutgedara Sellappu Mudiyanselage Ran Etana of do.	Old.
69	„ „	Idangedara Bannayaka Mudiyanselage Siyatu of Wattewelegama, and Narangahagedara Rafnapala Mudiyanselage Kiri Menika of do.	Old.
70	„ 17	Nikapitiyegedara Mallika Mudiyanselage Dingirala of Kiriwana Ellagama, and Kolongaswattagedara Atapattu Mudiyanselage Kiri Menika of do.	New.
71	„ 18	Kottalbaddégedara Ekanáyaka Mudiyanseláge Widáne of Bópitiyagama, and Hakurékandurégedara Tilakaratna Mudiyanseláge Mutu Menika of do.	New.

72	„	22	Egodagedara Rammanda Déweyáláge Punchá[1] of Bógahakumburégama, and Galpottégedara Rájapaksa Déwayáláge Mahimi of do.	New.
73	„	„	Nikapitiyégedara Mallika Mudiyanseláge Siyátu of Kiriwanaellegama, and Rotupíllégedara Tilakaratna Mudiyanseláge Dingiri Menika of do.	New.
74	„	25	Kottalbaddégedara Aiyapṛándi Mudiyanselage Siyatu of Bópitiyégedara, and Kottalbaddegedara Ekanayaka Mudiyanselage Punchi Menika of do.	Old.
75	„	28	Idangedara Samarakón Mudiyanselage Appuhami of Bópitiyagama, and Polwattégedara Tennakón Mudiyanselage Hami of do.	New.
76	„	30	Metihakkégedara Dasanayaka Mudiyanselage Hinappu of Bópitiyagama, and Palugedara Ratnayaka Mudiyanselage Ram Menika of do.	New.
77	June	14	Lunuatugedara Ratnayaka Mudiyanselage Widane of Bokonoruwagama, and Kiwulégedara Karunadhipati Ilankónkadawate Bandára Mudiyanselage Mutu Menika of do.	Old.
78	„	20	Bandarawattegedara Yapa Mudiyanselage Kiri Banda of Bandarawattegama, and Ekiriyawattegedara Danapala Mudiyanselage Ram Menika of Tundawelagama.	New.
79	July	16	Idangedara Mutuwa Durayalage Balaya of Pallekandegama, and Etikola Arawégedara Abarana Dewayalage Ungu of do.	New.
80	„	„	Etikola Arawégedara Mutuwa Durayalage Déweya of Pallekandegama, and Idangedara Abarana Dewayalage Hudí of do.	Old.
81	„	„	Welle Liyaddégedara Nanduwa Durayalage Bolanda of Pallekandegama, and Pallégedara Silindu Muttalage Meniki of do.	Old.
82	„	17	Siyambalagaha Kumburégedara Disanayaka Mudiyanselage Siyatu of Ritigaha Kumburegama, and Wattegedara Welimudiyansélage Kumarihami of do.	Old.
83	„	18	Metihakkégedara Dasanayaka Mudiyanselage Punchirala of Bópitiyágama, and Tambalagala Badullegedara Punchi Menika of do.	Old.
84	„	„	Metihakkegedara Dasanayake Mudiyanselage Gam Etirala of Bopitiyagama, and Dewetagedara Menikhitihami Mudiyanselage Kuma of do.	New.
85	„	20	Buduge Kande Pallégedara Silindu Muttáláge Subeyá of Pallekandegama, and Dehigollegedara Rájapaksa Déweyaláge Hudí of do.	Old.

SCHEDULE—*continued.*

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No. 13 of 1859.
86	1867, July 20	Pallégedara Silindu Muttáláge Kalinguwá of Pallekandegama and Walapané Kurupanáwela Yaddehigedara Hudí of do.	New.
87	„ „	Kandearáwegedara Ranatunga Déwayáláge Meniká of Pallékandegama, and Alutgedera Multen Duraheláge Dingiri of do.	Old.
88	„ 22	Kammalwattégedara Kondasinha Manaméndárayáláge Kaluhámi of Talákumburégama, and Walapone Kupaha Kammalégedara Widaneláge Wayran Etaná of do.	Old.
89	„ „	Pitapattiyégedara Rájapaksa Idirisinha Siripatuldéwayálage Hudá Elé Durayá of Talakumburegama, and Tetillegedara Wijayatunda Déwayáláge Rankirí of do.	Old.
90	„ „	Kammalwattégedara Kondasinha Manaméndrayalage Ukku Naide of Talákumburégama, and Millapitiyé Vidanélage Ukku Etana of do.	Old.
91	„ „	Idangedara Mutuwa Durayalage Kalinguwa of Udawelagama, and Bógodapalaté Dorakadakumburagedara Ungu of do.	Old.
92	„ „	Udawelegedara Mutuwa Durayalage Binduwa of do., and Idangedara Mutuwa Durayalage Hudí of Udawelagama.	New.
93	„ „	Paragahamadegedara Rajapaksa Sillattana Muttalage Menika of Udawelagama, and Udagedara Abarana Déwayalage Menika of do.	Old.
94	„ „	Udagedara Banduwa Durayalage Kalinguwa of Pallekandégama, and Udagedara Abarana Dewayalage Hudi of do.	Old.
95	„ „	Idangedara Mutuwa Durayalage Dewaya Kattandiya of Udawelagama, and Kanda Arawegedara Ranatunge Dewayalage Sirimali of do.	New.
96	„ „	Híndehigahawattegedara Rajapaksa Dewayalage Menika of Udawelegama, and Kehelwattegedara Muttuwa Durayalage Kalu of do.	Old.

97	"	"	Kiriyagalle Idangedara Abarana Dewayalage Hondiya Atapanguwé Duraya of Pallekandegama, and Pallewattegedara Idrisinha Dewayalage Kiri of do.	Old.
98	"	23	Galkotuwegedara Rajapaksa Siripatul Dewayalage Lamada of Talakumburegama, and Tetille Udagedara Yamasinha Dewayalage Garu of do.	Old.
99	"	"	Idangedara Abarana Dewayalage Menika of Pallekandegama, and Nagollegedara Abarana Dewayalage Sirîmali of do.	New.
100	"	"	Gonapelegedara Karuna Dewayalage Puncha of Talakumburegama, and Puwakgollegedara Menika of do.	Old.
101	"	"	Alutgedara Mutuwa Durayalage Sedara Ele Duraya of Udawelégama, and Sornatotapalate Pallewattegedara Karuna Dewayalage Mahimi of do.	Old.
102	"	"	Dehiwelagedara Walamini Déwayálâge Meniká of Gódunnegama, and Idamewattegedara Rájapaksa Dewayalage Wattu of do.	Old.
103	"	"	Kíriyagallegedara Abarana Déwayalàge Ratta Ele Duraya of Pallekandegama, and Udulpottagedara Nagasinnan Hali Vidanelage Ratti of do.	Old.
104	"	"	Déhiwelagedara Walamini Déwayalage Huda of Gódunnegama, and Bulugahakumburegedara Karuna Déwayalage Lami of do.	New.
105	"	"	Bintenne Palaté Siyambalagahagedara Jayasundara Patabendi Déwayalage Meddema of Tundawelegama, and Palugedara Pitiyé Rankuru Déwayalage Huda of do.	Old.
106	"	24	Kíriyagollegedara Abarana Déwayalage Déwaya of Pallekandegama, and Paragahamadagedara Rajapaksa Déwayalage Ratti of do.	Old.
107	"	"	Gonapéllegedara Karuna Déwayalage Ratta of Talàkumburégama, and Weli Arawégedara Appukutti Déwayalage Ukku of do.	Old.
108	"	"	Nigandagalagedara Rajapaksa Déwayalage Sedara of Talakumburégama, and Bogodapalata Kehelwattegedara Ganhéwayalage Ukku of do.	Old.
109	"	"	Mígahawattegedera Karuna Dewayalage Ratta of Talakumburégama, and Nigandagalagedara Rajapaksa Déwayàlage Punchi of do.	Old.
110	"	"	Wewégedara Wanni Déwayalage Garuwa of Beramadagama, and Déhiwelagedara Walimini Dewayalage Lami of do.	New.

Validity of certain Marriages.

SCHEDULE—*continued.*

No. of Entry in the Marriage Register.	Date of Registration.		Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No. 13 of 1859.
111	1867, July	24	Udawelagedara Mutuwa Durayalage Dewaya of Udawelegama, and Kimbullewegedara Mutuwa Durayalage Garu of do.	Old.
112	"	"	Agatagedara Karuna Dewayalage Kalinguwa of Udewelagama, and Udakohovile Kehelwattegedera Ketawala Vidanelage Ukku of do.	Old.
113	"	"	Kiriyagallegedara Abarana Dewayalage Ukkuwa of Pallekandégama, and Udakohowile Egodagahalawattagedara Utumpuli Dewayalage Ukku of do.	Old.
114	"	"	Buduge Kandegedara Abarana Dewayalage Kalinguwa of Pallekandegama, and Udakohowile Egodegahalawattegedera Utumpuli Dewayalage Menika of do.	Old.
115	"	25	Medegedara Rajapaksa Idirisinha Siripatul Dewayalage Galkotuwegedara Kalinguwa of Talakumburégama, and Bogodapalate Kitulgahawattagedara Garu.	Old.
116	"	"	Dambagahawattegedera Wisnu Dewayalage Menika of Pallekandegama, and Kiriyallagedera Abarana Dewayalage Awissiri.	Old.
117	"	"	Dambagahawattagedara Wisnu Dewayalage Puncha of Pallekandegama, and Agatagedara Abarana Dewayalage Mahimi.	Old.
118	"	"	Kíriyagollegedara Abarana Dewayálage Menika of Pallekandegama, and Tennehenegedara Abarana Déwayalage Sirimali of do.	New.
119	"	"	Kiriyagalle Idangedara Abarana Dewayalage Jayatuwa of Pallakandegame and Dambagahawattegedara Visnu Dewayalage Kalu of do.	Old.
120	"	"	Kimbullewegedara Mutuwa Durayalage Garuwa of Pallekandegama and Kíriyagollegedara Abarana Dewayalage Sirimali of do.	New.
121	"	"	Weli Arawegedara Appukutti Dewayalage Sobana of Talakumburegama, and Pitapattiyegedara Idirisinha Siripatul Dewayalage Mahimi of do.	Old.

122	„	„	Pitapattiyegedara Idirisinha Siripatul Dewayalage Ratta of Talakumburegama, and Bógodapalate Andiyawattegedara Hudi of do.	Old.
123	„	„	Tennewattegedara Manamendra Patabendige Kiri Naide of Talakumbura, and Tennewattegedara Manamendra Patabendige Punchi Etana of do.	New.
124	„	„	Kande Arawegedara Rammanda Dewayalage Aruma Atapanguwé Duraya of Tundawelagama, and Kandearawegedara Mutuwa Durayalage Kiri of do.	Old.
125	„	„	Hiriyalwelagedera Gunawat Bandara Mudiyanselage Punchirala of Medalapitiyegama, and Arawegedara Rajapaksa Mudiyanselage Punchi Menika of do.	Old.
126	„	„	Nagollegedara Manawíra Dewayalage Sedara of Tundawelagama, and Mondarakadagedara Rammanda Dewayalage Hudi of do.	Old.
127	„	„	Nagollegedara Manawíra Dewayalage Menika of Tundawelagama, and Pallewattegedara Rammanda Dewayalage Ukku of do.	Old.
128	„	„	Welanmadittegedara Rajapaksa Dewayalage Ratta of Udawelagama, and Tennehenegedara Ranasinha Dewayalage Mahimi of do.	Old.
129	„	„	Kiriyagallegedara Abarana Dewayalage Huda of Pallekandegama, and Kandearawegedara Ranatunga Dewayalage Mahimi of do.	Old.
130	„	27	Welleliyaddegedara Abarana Dewayalage Ratta of Pallekandegama, and Budugekande Pallegedara Silindu Dewayalage Hudi of do.	Old.
131	„	„	Wiyaluwa Korale Etulkola Bópitiyegama Idangedara Nawaratna Samarakon Mudiyanselage Vidane of Bópitiyegama, and do. Medalapitiyegama Arawegedara Wikkramasinha Herat Mudiyanselage Dingiri Menika.	Old.
132	„	„	Metihakkegedara Dasanayaka Mudiyanselage Appuhami of Bópitiyegama in Wiyaluwa Korle, and Medalapitiyegama arawegedera Wikkramasinha Herat Mudiyanselage Punchimenika of do.	Old.
133	„	„	Bógodapaláte Udakohowilégama Konahegedara Wanniya of Bópitiyegama in Wiyaluwa, and Udawelagama Bulugahawattegedera Meniki.	Old.
134	„	„	Dandugalegedara Ratanáyaka Mudiyanselage Appuhami of Gala Udagama, and Bógodapalate Dewadarawegedara Jayaratna Mudiyanselage Dingirimenika.	Old.

Validity of certain Marriages.

SCHEDULE—*continued.*

No of Entry in the Marriage Register.	Date of Registration.	Names of Parties	Marriage, old under Ordinance No 8 of 1861, or, new under Ordinance No 13 of 1859
135	1867, July 27	Bógodapalate Dewadarawegedara Hami of Gala Udagama, and Gala Udagama Ilukwelagedara Dingirimenika.	Old.
136	" "	Udawelagama Agatagedara Abarana Déwayalage Garuwa of Udawelagama, and Pallekandegama Kande Aruwégedara Ranatunga Dewayalage Hudi.	Old.
137	" "	Pallewattegedara Walamini Dewayalage Elaluwa, of Hapatgamuwegama, and Kukul Arawegedara Utupuli Dewayalage Hudi	Old.
138	" "	Udulpotagedara Nagasinna Multengevidana Durayalagey Puncha, Kattandiya of Udawelagama, and Yalkumburegama Udagammeddegedera Abarana Déwayalage Mahimi.	Old.
139	" "	Kitulwattegama Elwatte Ratadodangahawattegedara Yamasinha Déwayálage Kalinguwa of Udawelagama, and Udawelagama Udulpotagedara Nagasinna Multenge Vidana Durayalage Kalú.	Old.
140	" "	Pallewattegedera Ratta of Hapatgamuwegama, and Kukul Arawegedara Ratti -	Old.
141	" "	Kiriyagallegedara Lassama of Hapatgamuwa, and Kukul Arawegedara Garu -	Old
142	" "	Dehiwelagedara Menika of Godunnegama, and Kukul Arawegedara Ungu of Hapatgamuwa.	Old.
143	" "	Dehiwelagedara Ukkuwa of Godunnegama, and Migahaheligedara Rampati Dewayalage Sedari	Old.
144	" "	Alukulpotegedara Walamini Dewayalage Lassama Duraya of Hapatgamuwa, and Pallekande Konagedara Meniki.	Old.
145	" "	Udulpota Pallewattegedara Nagasinna Multenge Vidana Durayalage Subaya, and Kimbullewegedara Muttuwa Durayalage Ukku of Pallekanda.	Old

Validity of certain Marriages.

146	„	„	Wellassegedara Rantis Durayalage Ratta of Kumbukwalagama, and Elewattegedara Hudi of Udagama.	Old.
147	„	28	Puwakwattegedara Karuna Dewayalage Dewaya of Bogahakumbura, and Agatakumburegedara Rajapaksa Dewayalage Meniki of Yalkumbura.	Old.
148	„	„	Mulatagedara Bannakarallage Punchirala of Wattewela, and Jambugaswattegedara Rajapaksa Mudiyanselage Nawaratna.	Old.
149	„	„	Idamegedara Appuhami of Idamegama, and Mulatagedera Bannekarallage Dingirimenika of Wattawela.	Old.
150	„	„	Kimbullewe Medagedara Ukkuwa of Pallekanda, and Medawattegedara Mahimi of Berawamada.	Old.
151	„	„	Kimbullewe Pallegedara Rammanda Dewayalage Menika of Pallekanda, and Kimbullewe Medagedara Meniki of Kimbullewa.	Old.
152	„	„	Polkotuwegedara Karunaratna Dewayalage Binduwa of Udawela, and Udulpotagedara Nagasinna Multenge Vidana Durayalage Hudi.	Old.
153	„	„	Godamudunegedara Lassama of Kumbukwela, and Kumburegedara Awissiri of Kumbukwela.	Old.
154	„	„	Polkotuwegedara Karunaratna Dewayalage Menika of Udawela, and Yatahiragallegedara Karuna Dewayalage Kalu of Watagoda.	Old.
155	„	„	Yamasinhalagegedara Ukkuwa of Tetella, and Bogoda Palaté Wekumbura Ilukgedara Hudi.	Old.
156	„	„	Tennehenegedara Menika of Bogahakumbura, and Bulugahawattagedara Awissiri of Udawela.	Old.
157	„	„	Palugedara Pitiya Puncha of Tundawela, and Tettillegedara Meniki of Bokanoruwa.	Old.
158	„	„	Tettille Pahalagedara Tondana of Kinahela, and Ganmilegedara Hudi of Kinahela.	Old.
159	„	„	Kiriyagollegedara Puncha of Kumbukerela, and Kumburegedara Ungu of do.	Old.
160	„	„	Udulpota Pallewattegedara Nagasinnamultenge Durayalage Kalinguwa of Udawela, and Kuluwattégedara Meniki.	Old.
161	„	„	Kumburegedara Aruma of Udawela, and Kuluwattegedara Hudi of Udawela	Old.

SCHEDULE—*continued.*

No. of Entry in the Marriage Register.	Date of Registration.		Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No. 13 of 1859.
162	1867, July	28	Pallekande Kumburegedara Huda of Udawela, and Moragalle Hindehigahawattagedara Sirimalí of Udawela.	Old.
163	"	29	Gonapelessegedara Kalinguwa of Talakumbura, and Medawattagedara Garu of Berawamada.	Old.
164	"	"	Udagedara Yamasinhayalage Kalinguwa of Tetilla, and Dehiwelagedara Durayalage Mahimi of Godunna.	Old.
165	"	"	Tetillegedara Wijayatunga Deweyalage Ratta of Tetille, and Udagedara Yamasinhe Dewayalage Ukku.	Old.
166	"	30	Udagedara Yamasinha Dewayalage Hudá of Tetilla, and Bógodapalate Gengulle Ketawalagedara Hudí.	Old.
167	"	"	Kíriyagollegedara Rajapaksa Déweyalage Menika of Hapatgamuwa, and Walapané Utapalade Ambaliyadde Endarugollegedara Mahimi.	Old.
168	"	"	Pallewattegedara Walimini Déweyalage Déwaya of Hapatgamuwa, and Gódunne Bulugahakumburegedara Rajapaksa Déweyaláge Mahimi.	Old.
169	"	"	Alutgedara Rajapaksa Déweyálage Ratta of Gódunna, and Godunne Migahahela Makulewelagedara Rajapaksa Déweyalage Ungu.	Old.
170	"	"	Kukularawégedara Rajapaksa Deweyalage Huda of Hapatgamuwa, and Watteduragedara Walimini Deweyalage Girawi of do.	Old.
171	"	"	Watteduragedara Walimini Deweyalage Garuwa of Hapatgamuwa, and Pallewattegedara Menikı.	Old.
172	"	"	Etikolaarawegedara Abarana Deweyalage Kalinguwa of Pallekanda, and Godunne Rajapaksa Dewayalage Idamewattegedara Mahimi.	Old.

173	"	"	Idangedara Patabendi Abarana Dewayalage Bolanda of Pallekanda, and Kitulwatte Ratadodangahawattegedera Karuna Deweyalage Punchi.	Old.
174	"	"	Udagedara Abarana Dewayalage Ukkuwa of Pallekanda, and Gongutugollegedara Wirakkutti Dewayalage Meniki of do.	Old.
175	"	"	Udagedara Abarana Dewayalage Aruma of Pallekanda, and Tundawela Makulgollegedara Sirimali of Tundawela.	Old.
176	"	"	Kurundugahamadagedara Wanni Dewayalage Puncha of Kumbukwala, and Kimbullewe Pahalagedara Rammanda Dewayalage Meniki of Pallekanda.	Old.
177	"	"	Pussegedara Samarakon Mudiyanselage Seatu Gamarala of Kiwuligedara, and Dehigahaarawegedara Atapattu Mudiyanselage Punchimenika.	Old.
178	August	15	Digamullegedara Vijayatunga Durayalage Ratta of Godunna, and Bopitiye Godamudunegedera Utumpuli Dewayalage Girawi of Bopitiyegama.	Old.
179	"	"	Helawattegedara Utimpuli Dewayalage Dewaya of Godunna, and Kosarawegedara Mutuwa Durayalage Ukku of Udawela.	Old.
180	"	"	Wahumpuragedara Tunissa Dewayalage Ratta of Hapatgamuwa, and Egodawadiyégedara Karunaratna Dewayalage Mahimi of Udawela.	Old.
181	"	"	Helawattegedera Utimpuli Dewayalage Puncha of Godunna, and Gamagedara Kumburegedara Karuna Dewayalage Ungu of do.	New.
182	"	"	Migaha Ellegedara Rampati Dewayalage Meddama of Godunna, and Helegedara Yamasinha Dewayalage Ratti of Tetilla.	Old.
183	"	"	Digamullegedara Wijayatunga Dewayalage Huda of Godunna, and Gamagedara Kumburegedara Karuna Dewayalage Hudi of do.	Old.
184	"	"	Wahunupuragedara Wisnu Dewayalage Aruma of Hapatgamuwa, and Migaha Ellegedara Rampati Dewayalage Awissiri of Godunna.	Old.
185	"	"	Migaha Helegadera Rampati Dewayalage Menika of Godunna, and Gedara Kumburegedara Karuna Dewayalage Dingiri.	New.
186	"	20	Puwakgollegedara Yamasinha Dewayalage Ukkuwa of Talakumbura, and Bogodapalate Lunugalle Godamudunegedara Wisna Dewayalage Girawi.	Old.
187	"	"	Puwakgollegedara Yamasingha Dewayalage Kalinguwa of Talakumbure, and Bogodapalata Gengulle Dorakadakumburegedara Hudi.	New.

Validity of certain Marriages.

SCHEDULE—*continued.*

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under Ordinance No. 8 of 1861, or, new, under Ordinance No. 13 of 1859.
188	1867, August 20	Palugedara Ratnayaka Mudiyanselage Punchirala of Galauda, and Soronnatotapalate Liyadipitiye Kehelwattegedara Ukku Menika.	New.
189	" "	Agalakumburegedara Ratnayaka Mudiyanselage Rammal Hami of Galauda, and Wattewelagedara Ratnayaka Mudiyanselage Rammenika of Wattewela.	Old.
190	" "	Medakumburegedara Aíyappâdi Mudiyanselage Appuhámi of Galauda, and Kiruwana Ulpotegedara Punchi Menika of Godunna.	Old.
191	" "	Lunuatugedara Ratnayaka Mudiyanselage Menikrala Aratchila of Bokanoruwa, and Gurupillegedara Danapala Mudiyanselage Dingiri Menika of Hapatgamuwa.	Old.
192	" "	Lunuatugedara Ratnayaka Mudiyanselage Ganetirala of Bokanoruwa, and Soronnatotapalate Kandegedara Idamégedara Ratnáyake Mudiyanselage Hudumenika.	Old.
193	" "	Dandukalagedara Ratnayaka Mudiyanselage Punchirala of Galauda, and Ritigaha Ellegedara Muhandiramalage Mutumanika of Bokanoruwa.	Old.
194	" "	Weliarawegedara Karuna Dewayalage Puncha of Talakumbura, and Puwakgahaarawegedara Ranatunga Dewayalage Ukku of Watagodagama.	Old.
195	" "	Wakkumburegedara Disanayaka Mudiyansalage Nikapotagedara Kawurala of Wakkumbura, and Wakkumburegedara Nawaratna Mudiyansalage Malaka of do.	Old.
196	" "	Weliarawegedara Ratnayaka Mudiyanselage Syatu of Wakkumbura, and Medagedara Ratnayaka Mudiyanselage Mutumenika of Bokanoruwa.	Old.
197	" "	Udagedara Yamasinha Déwayalage Kalinguwa of Tetilla, and Toragamuwegedara Utumpuli Dewayalage Hudi of Bopitiya.	Old.

Validity of certain Marriages.

198	"	"	Elewattegedara Multenperuma Dewayalage Kalinguwa of Wakkumbura, and Labugastalawe Medawattegedara Wanni Dewayalage Dingiri of Beramada.	New.
199	"	"	Elewattegedara Multenperuma Dewayalage Binduwa of Wakkumbura, and Elewattegedara Multenperuma Dewayalage Hudi.	Old.
200	"	"	Elewattegedara Multenperuma Dewayalage Kiriya of Wakkumbura, and Ilukegedara Hewa Durayalage Dingiri of Tetilla.	New.
201	"	"	Wakkumburegedara Nawaratna Mudiyanselage Appuhami of Wakkumbura, and Badulupanguwe Medawala Ilukwattegedara Mankatta Mudiyanselage Malaka of do.	Old.
202	"	"	Walapane Udapalate Mípanawe Wewégedara Ratnayaka Mudiyanselage Hami of Wakkumbura, and Wakkumburegedara Nawaratna Mudiyanselage Rammenika of Wakkumbura.	Old.
203	"	"	Elewattegedara Multenperuma Dewayalage Ratta of Wakkumbura, and Bogodapalate Lunugalle Pallewelagedara Durayalage Meniki.	New.
204	"	"	Tetillegedara Wijayatunga Dewayalage Balaya of Tetilla, and Elukégedara Kaluwa Dewayalagé Hudi.	Old.
205	"	"	Ilukégedara Kaluwa Dúrayalage Kiriya of Tetilla, and Bogodapalate Lunugalle Iluké Udagedara Ukku.	Old.
206	"	"	Ilukégedara Kaluwa Dewayalage Kaluhonda of Tetilla, and Bógadapalate Lunugalle Hewanegedara Ganhewayalage Mahimi.	Old.
207	"	"	Ilukégedara Kaluwa Dewayalage Tondana of Tettilla, and Pussegahamulagedara Wijayatunga Dewayalage Hudi of do.	New.
208	"	"	Pallekumburegedara Rajapaksa Déwayalage Ratta of Tetilla, and Pallekosgollegedara Rajapaksa Dewayalage Girawi of Beramada.	Old.

28th December 1867.

199.

No. 21 OF 1867.

An Ordinance to promote the Maintenance and Extension of Paddy Cultivation in this Island.

Preamble.

WHEREAS it is expedient to promote the maintenance and extension of paddy cultivation in this Island: It is enacted as follows:

Short title.

1. This Ordinance may be cited for all purposes as "The Paddy Cultivation Ordinance, 1867."

2. Has had its effect.

Interpretation of terms.

3. For the purposes of this Ordinance the word "proprietor" shall, except when otherwise provided, be deemed to mean the proprietor of paddy lands only, and to include the cultivator or person in actual possession of any such land; and the word "district," where not inconsistent with the context or subject matter of this Ordinance, shall be construed to mean any corle, pattu, village, or other subdivision of a province, as the Government Agent thereof may deem convenient.

I.—*Meeting to form Irrigation Districts.*

Public meeting of proprietors.

4. The Government Agent of any province may, whenever to him it shall appear advisable, or shall, upon a requisition signed by not less than ten proprietors in any village, call a public meeting of proprietors within any district, to be specified in the notice convening such meeting, for the purpose of determining by majority of votes, as herein-after provided, whether they shall form themselves into an irrigation district, for the encouragement and extension of paddy cultivation therein, and for the better enforcement of the ancient customs of such district in regard to the irrigation and cultivation of paddy lands, and the maintenance of the water rights of such proprietors: Provided that in case the extent of the district should render more meetings than one necessary, the Government Agent may form several divisions of each district, and hold a meeting at each division.

Proviso.

Public notice of such meeting.

5. The Government Agent shall, one month at least before the day of holding any such meeting, cause notices to be published throughout such district, in such manner as shall appear to him best adapted for giving the greatest publicity thereto, of the day and place appointed for holding such meeting, and of the objects for which the same is to be held, and shall in such notices call upon all proprietors within any such district or division to attend in person, or by proxy in writing, at such meeting for the purposes aforesaid.

Proceedings at such meeting.

6. Every meeting so convened shall be held at the time and place appointed, in the presence of the Government Agent, and at every such meeting every proprietor within the district or division for which the meeting has been called who shall be present thereat,

either in person or by proxy in writing, shall be entitled to declare to such Government Agent:

(1.) Whether it is his wish that the district aforesaid should be constituted an irrigation district within the meaning of this Ordinance, for the purposes aforesaid.

(2.) Whether it is further his wish that the Ordinance should be, for that end, carried into operation with the aid of headmen or of village councils or of both.

It shall be the duty of the Government Agent to explain to the proprietors the results that would, according to this Ordinance, follow from the adoption of the different modes of carrying the Ordinance into operation, and the provisions generally of the Ordinance. If the proprietors determine to adopt the aid of village councils, it shall be lawful for them to appoint a committee of not more than twelve nor less than three persons to be associated with the Government Agent for the purpose of drawing up rules for the enforcement of the said ancient customs, and for consulting with and advising him in matters connected with irrigation in the district: Provided that where more meetings than one are held for any district, it shall be the duty of the Government Agent to see that each division is allowed to appoint its proportion of the committee to make up the number for the entire district; and such Government Agent shall enter or cause to be entered in the minutes of such meeting the questions or resolutions proposed thereat, and the number of votes given for and against the same, and shall at the close of such meeting sign the said minutes, and publicly declare the result of the votes given thereat, and shall cause the said minutes to be deposited in the provincial or district Kachchéri, as may be most convenient, and copies thereof, certified under his hand, to be transmitted to Government.

Objections to votes how decided.

7. If at any such meeting any question shall be raised as to the right of any person to vote, it shall be lawful for the Government Agent then and there to make such inquiry as he may deem requisite, and to declare whether such person has the right of voting or not, and the decision so made shall be final; and an entry shall be made in the minutes of such meeting of any such question and of the decision thereon.

Majority to decide.

8. All questions or resolutions proposed at any such meeting shall be determined by a majority consisting of two thirds at least of the persons present and entitled to vote.

Districts and rules under No. 9 of 1856, and No. 21 of 1861, to continue.

9. The districts already constituted under the Ordinance No. 9 of 1856, and No. 21 of 1861, shall be irrigation districts within the meaning of this Ordinance, and the rules proclaimed thereunder shall be the rules for such districts: Provided that, both as respects such districts and the districts hereafter constituted under this Ordinance, the Government Agent may, if to him it shall seem advisable, or shall, upon a requisition of any ten proprietors within any district, call a public meeting, once or oftener, of all proprietors for the purpose of coming to a determination different from that by which they are bound at the time of summoning such meeting, in respect of the questions referred to in the sixth

Power of proprietors to change.

section ; and the proprietors within the district shall be bound and governed by such fresh determination, until the same be again in like manner altered : Provided further, that the procedure to be observed in respect of any such meeting shall be similar to the procedure herein prescribed in regard to the first meeting.

Where proprietors cannot be convened together.

10. If owing to the districts being small and separated from each other by large tracts of jungle, or from any other cause, the proprietors thereof cannot be made to meet as herein-before provided, it shall be lawful for the Government Agent, after making due inquiry, to draw up rules for the enforcement of the ancient customs herein-before referred to; and this Ordinance shall in such districts be carried into operation with the aid of headmen appointed thereto by the Government Agent.

Mode of enforcing provisions of this Ordinance.

11. Whenever an act shall be committed contrary to the said customs or rules, or a complaint be made, or a question arise having relation to the matters provided for by this Ordinance, such act, complaint, or question shall be investigated and dealt with by the headmen, or by the village council, according to the election made by the district under the sixth section, or, where both systems have been adopted, then by either or by both, according to the nature of the case.

II.—*Headmen.*

Appointment of headmen.

12. If the result of the meeting referred to in the sixth section should render it necessary, there shall be elected in the manner herein-after provided one or more headmen for the district or division for which the meeting has been called, whose duty it shall be, subject to the direction and control of the Government Agent, to attend to all matters connected with the irrigation and cultivation of the paddy lands therein, and the maintenance of rights and works connected therewith, and to prevent, so far as in his power lies, any act, whether of commission or omission, contrary to the ancient customs in reference thereto, or whereby damage may accrue to any of the proprietors.

Elections how conducted, &c.

13. The headmen shall be elected by a majority of the proprietors present at any such meeting as aforesaid, either in person or by proxy in writing: Provided that it shall be lawful for the Government Agent at any time to dismiss any headman so elected or to be thereafter elected as herein-after provided who shall be guilty of any misconduct in the execution of his office; and in every such case, or in the case of any vacancy by death or resignation, the Government Agent shall by proper and reasonable notices summon a meeting of the proprietors of the district or division in respect of which a new headman is required, and at such meeting another headman shall and may be elected by such majority as aforesaid : Provided also, that in case no person shall be elected at any such meeting for the office of headman, the Government Agent shall himself appoint a person to such office, and that it shall be further lawful for the Government Agent to appoint a headman provisionally until one can be elected.

14. Whenever any act shall be committed contrary to such ancient customs, or whereby damage may accrue to any of the proprietors within any such district or division as aforesaid, the headman thereof shall forthwith repair to the spot, and, if the act complained of be of a nature to call for prompt action to prevent injury, shall take such steps as shall be necessary to place matters in the state in which they were, and thus to remedy the evil likely to arise; and shall forthwith report the matter to the Government Agent: Provided that, whenever the headman can safely defer taking any steps until he shall have been able to communicate with the Government Agent, it shall be his duty to desist from action until he shall have received the instructions of the Government Agent; and further provided, that in cases where the headman shall have taken prompt action to prevent injury, such prompt action shall not be held to prevent the act complained of being investigated by the village council in districts where both systems exist.

When headmen may inquire into breach of rules.

15. Whenever a headman shall incur any expenditure in the execution of his duty as aforesaid, and the person in consequence of whose act such expenditure was incurred shall deny his liability to pay the same, or fail to satisfy it, the Government Agent shall, on his being satisfied that such expenditure was properly incurred, and that it is reasonable, sign a certificate thereof, setting out the name of the person in consequence of whose act such expenditure was incurred, the amount thereof, the nature of the act complained against, and the name of the headman by whom the expenditure was incurred, and transmit the same to the person in default of that district; and if such person shall fail to pay the same within ten days from the service of the certificate, the Government Agent shall proceed to recover the same as provided in the sixth division of this Ordinance.

Mode of recovering expenditure incurred by headmen.

16. If any headman shall fail or neglect to perform the duties devolving upon him, or shall act in excess of the authority hereby conferred upon him, or in bad faith, or without probable cause, or wantonly and maliciously, he shall, besides being answerable in damages to the person injured by his act, whether of commission or omission, be guilty of an offence, and be liable to a fine not exceeding five pounds.

Liability of headmen.

17. Any person unlawfully resisting, molesting, or obstructing any headman in the execution of any duty imposed upon him by this Ordinance, shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Resistance to headmen.

18. It shall be lawful for the committee appointed under the sixth section, or for the Government Agent if no committee shall have been appointed, to award payment to irrigation headmen for their services as such, either in kind from the produce of the division for which each such headman shall be appointed, or in money, and the proprietors of paddy lands within such district or division shall be liable to make such payment, and in case of default the same shall be recovered from them as is provided in the sixth division of this Ordinance.

Payment to irrigation headmen.

III.—*Rules for enforcing Customs.*

Rules how to be made valid and binding.

19. If a committee be appointed in the manner referred to in the sixth section, it shall, associated with the Government Agent as aforesaid, proceed to draw up rules for the enforcement of the ancient customs, or if the rules be drawn out by the Government Agent under the tenth section, such rules shall, when completed, be transmitted by the Government Agent to the Governor, for the approval or disallowance thereof by the said Governor, with the advice of the Executive Council; and in case such rules shall be approved, notice of such approval shall be given by proclamation, and the said rules shall be published in the "Government Gazette," and in the district, in such manner as to the Government Agent shall seem expedient, and shall thereupon become binding upon proprietors of all lands within the said district, and shall be as legal, valid, and effectual as if the same had been inserted herein: Provided that nothing contained in such rules shall be repugnant to or inconsistent with the true intent and meaning of this Ordinance.

Proviso.

Rules may be amended or repealed.

20. At any time after the publication of any such rules as aforesaid, the Government Agent may, if to him it shall seem advisable, or shall upon the requisition of any ten proprietors of the district where such rules are in force, call a public meeting of the proprietors for the purpose of adding to, amending, or repealing the existing rules, or any of them, or he may in cases falling under the tenth section draw up new rules himself for the purpose aforesaid: Provided that the said additions, amendments, or repealing provisions, as the case may be, shall be determined on, approved, and published, and in all respects dealt with and decided upon, in the same manner as is herein-before directed and provided with respect to the original rules, precisely as if the provisions relating to such original rules were here repeated.

IV.—*Village Councils.*

How village councils are to be convened, and their mode of procedure.

21. Whenever it shall seem to him necessary to convene a village council, the Government Agent shall cause notice to be given in the village where the party complained against resides, or where the act, whether of omission or commission, is alleged to have been committed, in such manner as shall appear to him best calculated for making the same generally known to the parties concerned of the time and place appointed by him for the investigation of such complaint; and at the appointed time and place the complaint shall be publicly inquired into by the Government Agent, or some person specially deputed by him for the purpose as president, assisted by a village council chosen in manner hereinafter mentioned; and if such village council shall, at the close of the inquiry, be of opinion that the party complained against has committed a breach of the rules and such opinion shall be concurred in by such Government Agent or person deputed as aforesaid, the village council shall forthwith award and adjudge that the

person so offending do pay a penalty not exceeding three pounds: Provided that such inquiry shall take place in the presence of the party complained against, who shall have full liberty to make his defence before such council, unless, in case of his absence, the said council shall be satisfied that he has had notice of the intended meeting, and has no valid excuse for being absent therefrom: Provided further, that no sentence shall be carried into execution unless confirmed by the Government Agent, and that in case the inquiry be conducted by anyone deputed by the Government Agent, the proceedings shall forthwith be submitted to the Government Agent for confirmation.

Proceedings before a deputy to be submitted to the Agent.

22. The village council shall consist of not less than five nor more than thirteen men, selected by the president of such council from among the proprietors of paddy lands situated in the district. The Government Agent, or some person specially deputed by him for the purpose, shall be the president of such council, and shall conduct and keep a record of the proceedings thereof; but he shall not vote upon any question arising for the determination of the council, unless the votes of the members shall be equally divided, when he shall have a casting vote.

Village council how constituted.

23. The proceedings before such village councils shall be summary, and free from the formalities of judicial proceedings, and it shall be the duty of such councils to do substantial justice in all questions coming before them, without regard to matters of form; and no advocate, proctor, or agent shall be permitted to appear on behalf of any complainant or defendant, or other person, before such councils.

Proceedings to be summary and free from any formalities.

24. No appeal shall lie to any court against the decision or award of any village council, on any plea or pretext whatsoever; nor shall any injunction be issued by any court in respect of any matter of which such council may take cognizance by virtue of this Ordinance.

Proceedings of village council not subject to appeal or injunction.

25. Whenever any person shall be adjudged by such village council to pay any sum of money as aforesaid, the president of such council shall, unless the same be forthwith paid, sign a certificate of the amount due, and (if such president be not the Government Agent himself) forward the same to the Government Agent; and the Government Agent shall thereupon proceed to recover the sum in the manner directed in the sixth division of this Ordinance.

Penalty for breach of rules how recovered.

26. In awarding any penalty, it shall be competent for the village council to direct such portion thereof as it shall deem fit to be paid to the person injured or aggrieved by the act or omission in respect of which such penalty has been imposed (on condition that such person, if he shall accept the same, shall not have or maintain any suit for the recovery of damages for the loss or injury sustained by him by reason of such act or omission), and such other portion thereof as it shall deem fit, to the persons employed to do the work which ought to have been done, or to repair the mischief done by the defendant.

Village council may direct appropriation of penalties.

27. All penalties paid or recovered under the award of a village council shall be deposited with the Government Agent,

Penalties to be paid to Agent to

be applied by him as directed.

to be by him appropriated in the manner prescribed by the village council. The balance, if any, shall be applied to the payment of such necessary expenses of carrying this Ordinance into execution, and for such purposes of irrigation works within the district as the Government Agent and the committee appointed under the sixth section shall determine: Provided that if any members of such committee shall have died, or left the district, or shall refuse to act, it shall be lawful for the Government Agent to appoint others in their stead. Where the rules shall have been drawn up by the Government Agent under the provision of the tenth section, such Government Agent shall apply the balance to the payment of such necessary expenses and for such purposes connected with irrigation as to him shall appear expedient.

V.—*Construction, Repair, and Improvement of Irrigation Works.*

Means to provide for construction, repair, or improvement of irrigation works, &c.

28. Whereas it is expedient to provide means for the construction, repair, or improvement of works connected with the cultivation of paddy lands, and to keep channels which supply water to such lands free from obstruction and in proper order: It is enacted, that it shall be lawful for the Government Agent, at his own instance, or on the application of three or more of the proprietors, to call a meeting of the proprietors of the allotments of land likely to be benefited by any proposed work, to determine by a majority of the proprietors present, either in person or by proxy in writing, that it is expedient that such works be, in whole or in part, constructed, repaired, or improved, or such channels be kept free from obstruction and in proper order, and, if so, whether or not Government aid is necessary for such work. If the majority present shall determine that such aid is not necessary, they shall proceed to determine further the rate of subscription in money, or of contribution in labour, payable by each proprietor towards the work, and their decision shall be recorded and shall be binding on all the proprietors of allotments of land benefited by such work.

Where Government aid is not deemed necessary.

Proceeding where Government aid is deemed necessary.

29. If the majority shall determine that Government aid is necessary, the Government Agent shall proceed to make application for such aid, specifying therein the allotments of land which are likely to be benefited by the work, and the names, so far as he can ascertain the same, of the proprietors of such allotments; and it shall be lawful for the Governor, if to him it shall appear expedient to do so, to direct plans and estimates of the work to be prepared, and to refer the same to a board, consisting of the Government Agent of the province in which the work is to be performed (and not any Assistant Government Agent), the Surveyor General, and the Director of Public Works, for report on the advisability of undertaking the work, and for a specification of the lands which will be benefited by the work. After receiving their report it shall be lawful for the Governor to sanction the performance of the work. Such sanction shall be published in the village by beat of tom-tom, and from the date that the sanction

is given by the Governor the several allotments of land to be benefited by the work (as set out in the specification of the board as aforesaid, and which said specification shall be conclusive on the point), and the proprietors thereof, shall become and be severally bound and liable to repay the cost of such outlay, as herein-after provided; and the said cost shall be and shall form a first charge upon the several allotments as aforesaid, to the extent, as respects each of those allotments, of a proportion due by each, to be calculated as herein-after prescribed; and the said charge shall take precedence over all mortgages, hypothecations, and encumbrances whatsoever.

Government officers shall execute the work, option being left to proprietors to execute the earthworks.

30. The officers appointed by the Government shall proceed to execute the work, but the option shall always be given to the proprietors whose allotments are to be benefited by the work to perform the necessary earthworks connected therewith, at their own expense: Provided, however, that it shall be lawful for the officer in charge of the work to cause the earthworks to be otherwise performed, if the proprietors fail to perform the same when required to do so, or perform the same unsatisfactorily.

Contribution by proprietors in repayment of sum expended by the Government.

31. The sum expended by the Government in the execution of the work shall be payable in ten equal yearly instalments. The Government Agent shall assess the proportion due for each allotment, including such allotments as may belong to the Crown, by dividing the sum expended by the Government in executing the work by the total number of acres of the several allotments benefited by the work as specified in the report of the Board as aforesaid, and thus apportion the amount due upon each allotment; and the Government Agent shall thereupon transmit to the proprietor of each land a requisition, calling upon him to pay to such Government Agent, on the days in each year specified in the said requisition, the amount of the contribution due for the allotment of which he is proprietor, to make up the amount due to the Government. If the proprietor be absent from the village, or if there be more than one proprietor for any allotment, or if from any cause the requisition cannot be served on the proprietor, the Government Agent shall cause such requisition to be affixed in some conspicuous part of the allotment, and the Government Agent shall further cause a notice to be published in the village, by beat of tom-tom, on three different occasions, specifying the allotments which will have to contribute towards the cost of the work executed by the Government, the sum each allotment is assessed at, and the time within which the different instalments due upon each allotment are to be paid to the Government Agent.

Acquisition of land for irrigation purposes.

32. If land be wanted for keeping watercourses and channels free from obstruction, or for the construction, repair, or improvement of any work connected with irrigation, and there is any hindrance to the acquisition thereof, the Governor may declare that the land is needed for public purposes, and may order proceedings for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any laws now or hereafter to be in force for the acquisition of land for public purposes; and the sum

paid as compensation shall be included in the cost of the work, to be recovered as herein-after provided.

Plan or survey of channels, watercourses, tanks, and ponds to be conclusive.

33. Whereas it is necessary to keep channels of drainage, watercourses, ponds, and tanks free from obstruction, and to prevent encroachment thereon : It is hereby enacted that, if by any plan or survey purporting to have been made under the authority of the Surveyor General it shall appear that any channel, watercourse, pond, or tank has been encroached upon by any person, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited therein, unless satisfactory proof to the contrary shall be established.

Removal of obstruction or encroachments.

34. It shall be lawful for the Government Agent to give order verbally, or by notice in writing, to any person obstructing or encroaching upon any channel, watercourse, pond, or tank situate within his province or district, forthwith to remove or abate the same; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom such order should be given, it shall be lawful for the said Government Agent to cause any such obstruction or encroachment to be forthwith removed or abated ; and for that purpose it shall be lawful for the said Government Agent, or any person thereto authorized in writing by the Government Agent, where necessary, to enter into any garden, inclosure, or other premises, and to cause to enter therein such persons, with such instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement, and for the removal of the earth or substances put into or obstruction made of such channel, watercourse, pond, or tank ; and the Government Agent shall proceed to recover the costs which have been *bonâ fide* incurred in effecting such removal or abatement from the party on account of whose non-compliance with any such order such costs were incurred, in manner provided in the sixth division of this Ordinance.

VI.—*Recovery of Money due under this Ordinance.*

Seizure and sale of property of defaulters.

35. If default be made in the payment of any instalment due in repayment of the amount expended by the Government on the construction, repair, or improvement of any irrigation work, it shall be lawful for the Government Agent, or any person authorized by writing under his hand, to seize the allotment of land herein declared bound and specially chargeable with the repayment of the proportion due by it of the amount expended by the Government as aforesaid. If any person shall neglect or refuse to pay any other sum which he is made liable to pay under this Ordinance, it shall also be lawful for the Government Agent, or any person authorized by writing under his hand, to proceed to seize any property whatsoever belonging to the person in default, wheresoever the same may be found within the province or district. If the amount due, together with the costs and charges payable under section 37 of this Ordinance, shall not be previously paid or

tendered, the Government Agent shall proceed to sell the allotment of land or property so seized, by public auction, at any time not less than 21 days from the time of such seizure.

Keeping a person in charge of property seized.

36. It shall be lawful for the person making the seizure to place and keep a person in possession of the land so seized as aforesaid, pending such sale.

Costs and charges of seizure and sale.

37. It shall be lawful for the Government Agent, or any person authorized by him as aforesaid, to demand, take, and receive from the person by whom money may be due as aforesaid, or from the owner or any joint owner of any property which may be lawfully seized for such nonpayment as aforesaid, the several sums of money mentioned as follows:

(1.) For cost of proceeding to the land of the party in default in order to seize the same, a charge not exceeding one shilling for every pound due:

(2.) For keeping a person in possession, a charge not exceeding one shilling per day:

(3.) For the expenses of sale, a charge not exceeding sixpence in the pound on the net produce of the sale.

Return of overplus to owner or person making deposit.

38. In the event of a sale of property seized, the Government Agent at whose instance such seizure was made shall, after deducting the amount due as aforesaid, and also the costs and charges payable under section 37 (which said costs and charges such Agent is hereby authorized to retain), restore the overplus, if any, arising from such sale to the owner or joint owners of the property sold.

Certificate of sale.

39. If land be sold for nonpayment as aforesaid, a certificate, signed by the Government Agent, shall be sufficient to vest absolute right and title to and interest in the land sold in the purchaser, free from all encumbrances whatsoever, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immovable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

Miscellaneous.

Customs certified to by Government Agent to be *primâ facie* evidence.

40. Whenever any irrigation districts shall make rules for the better enforcement of the ancient customs as herein-before provided, the same, certified by the Government Agent, shall be received as *primâ facie* evidence of their existence, and of the customs enforced thereby.

Powers given to Government Agent may be executed by any Assistant Agent.

41. All the powers, duties, and obligations entrusted to or imposed on the Government Agent by this Ordinance shall and may be executed and performed by any Assistant Government Agent within the limits of his district.

31st December 1867.

200.

No. 4 OF 1868.

An Ordinance to establish further Tolls.

Preamble.

WHEREAS it is expedient to establish the tolls herein-after specified: It is hereby enacted as follows:

Tolls at roads, bridges, and ferry.

1. From and after the passing of this Ordinance, tolls shall be established on the road, bridge, and ferry herein-after specified, at such rates and at such places as the Governor from time to time by proclamation shall appoint; provided that the same shall in no case exceed the rates specified in the 4th section of "The Toll Ordinance, 1867."

Road.

On the road leading from the Gampola and Pussellawa road to Pupuressa at Delpitiya.

On the road through Hunasgiriya and Elkadua to Dotale.

On the road at Bandaragama between Horona and Bolgoda.

Bridge.

Tuntota between Kurunégala and Mádampé.

Maguru Oya on the road to Giriula.

Ferry.

Mí Oya between Puttalam and Anurádhapura.

11th January 1868.

201.

No. 5 OF 1868.

An Ordinance for taking a Census of this Island.

Preamble.

WHEREAS it is expedient that arrangements should be made for facilitating the enumeration of the inhabitants of this Island: It is hereby enacted as follows:

1. Has had its effect.

Governor may authorize enumeration to be made, and may appoint officers therefor.

2. The Governor, with the advice of the Executive Council, may from time to time as he may deem necessary authorize and direct an enumeration to be made of the inhabitants of this Island, or of any province or district or portion thereof, and may appoint any date or dates upon or within which such enumeration shall be made, and may appoint officers to superintend the same: Provided always, that one clear month previous to such enumeration being commenced notice of intention to make the

same, with the date or dates upon or within which it is intended to be made, the names of the officers appointed to superintend the same, and all other necessary particulars, shall be published in the "Government Gazette," and that the said notice shall be also proclaimed by beat of tom-tom in every place in which the enumeration is to be made.

Officers appointed by Governor to make necessary arrangements.

3. Any officer appointed to superintend any such enumeration shall, in accordance with the instructions of the Governor, appoint such enumerators, and make such arrangements generally as may to him or them appear necessary for the purposes of such enumeration.

Returns to be left at each house to be filled up.

4. Each enumerator or other officer appointed under this Ordinance shall, agreeably to his instructions, leave at each house or place of residence within his respective district, four days at least before the time appointed for the collection of the completed returns or census, a blank schedule or return of such form and containing such particulars as the Governor may direct to be duly filled up and signed by the owner, tenant, or principal occupant of the said house or place of residence.

Name of officer appointed to be inserted in each return

5. Every census schedule or return issued under the authority of this Ordinance shall bear the name of the officer authorized by Government to direct or superintend the enumeration of the population of the province, district, or place in which such schedule or return shall be issued.

Penalty for neglect or refusal to fill up return.

6. Any person wilfully neglecting or refusing correctly to fill up and affix his signature to any such schedule or return so left at his house or place of residence, or who shall neglect or refuse to return the same to the enumerator or other officer when called upon so to do, or to furnish the necessary information to an enumerator or other officer to fill up the same for him, if he may not know how to write, shall be liable to a penalty not exceeding five pounds, and may also be detained in custody until he shall have correctly filled up and signed the said schedule or return.

Amendment of defective returns.

7. Any enumerator or other officer employed in the collection of such schedules or returns, if he shall find any of the same defective, or in any respect improperly filled in, shall return the same to the occupant of the house or residence to which they relate, together with a written or printed notice requiring that the same be duly filled in or amended within a specified period not less than twenty-four nor more than forty-eight hours, and if such occupant shall then fail so to fill in or amend any such schedule or return, he shall on conviction be liable to a fine not exceeding five pounds, and may also be detained in custody until he shall correctly fill in or amend the said schedule or returns.

23rd September 1868.

202.

No. 6 of 1868.

An Ordinance relating to the Deltota Road.

Preamble.

WHEREAS application has been made to Government by the proprietors of certain estates, by whom the road passing through the districts of Nilamba and Lower Héwáheṭa, from Pérádeniya to the Lúla Kandura Estate, and known as the Deltoṭa Road, was constructed to bring the said road within the provisions of "The Branch Roads Ordinance, 1866:" It is enacted as follows:

Deltota Road brought under "The Branch Roads Ordinance, 1866."

1. From and after the first day of January 1869, the said road shall be treated as a road made under "The Branch Roads Ordinance, 1866," and provision shall be made for its upkeep and repair as if it had been originally constructed under the provisions of that Ordinance.

This Ordinance and "The Branch Roads Ordinance," to be deemed one.

2. This Ordinance and "The Branch Roads Ordinance, 1866," shall be read and construed as if they formed one Ordinance.

23rd September 1868.

203.

No. 8 of 1868.

An Ordinance relating to Stamp Duties.

Preamble.

WHEREAS it is expedient to make certain alterations in respect of the instruments herein-after mentioned: It is therefore hereby enacted as follows:

1. Has had its effect.

Duties on bonds to secure advances on a forthcoming crop, and payable on its realization.

2. Bonds given in acknowledgment of advances made or to be made on a forthcoming crop, such advances being secured by hypothecation of the crop, with or without personal security, and made payable on the realization of such crop, but within a year from the date of such bonds, shall bear stamp duty according to the schedule hereto annexed, anything in "The Stamp Ordinance, 1861," to the contrary notwithstanding.

Marginal credits may bear adhesive stamps.

3. The duties which attach to and are payable upon bills of exchange drawn within this Island on parties abroad, on forms provided by the drawees, to which are attached the engagements of such drawees to accept them, and which are commonly known as "marginal credit bills," may be denoted by adhesive stamps, anything in "The Stamp Ordinance, 1861," to the contrary notwithstanding.

Provisions as to adhesive stamps to apply to marginal credits.

4. The provisions in the said Ordinance contained relating to adhesive stamps shall apply to such bills in the preceding section mentioned, as have their duties denoted by adhesive stamps.

5. This Ordinance and "The Stamp Ordinance, 1861," shall be read and construed as if they formed one Ordinance. This Ordinance and Stamp Ordinance, 1861, to be deemed one.

SCHEDULE.

						£	s.	d.
Where the sum to be lent shall not exceed				£100	-	0	2	6
"	shall exceed £100 and not exceed			250	-	0	5	0
"	"	250	"	500	-	0	7	6
"	"	500	"	750	-	0	10	0
"	"	750	"	1,000	-	0	12	0
"	"	1,000	"	1,500	-	0	15	0
"	"	1,500	"	2,000	-	1	0	0
"	"	2,000	"	2,500	-	2	0	0
"	"	2,500	"	5,000	-	3	0	0

For every additional 1,000*l.* or part of 1,000*l.*, one pound.

30th September 1868.

204.

No. 11 of 1868.

An Ordinance to amend and consolidate the Laws of this Colony relating to the Administration of Justice.

Whereas by royal charter or letters patent bearing date the eighteenth day of February in the year one thousand eight hundred and thirty-three, provision was made for the administration of justice in this Colony: And whereas by two other royal charters or letters patent bearing date respectively the twenty-eighth day of January in the year one thousand eight hundred and forty-three, and the second day of July in the year one thousand eight hundred and forty-four, provision was made for the abrogation or annulment, if need be, of all or any of the provisions of the said first-recited charter or letters patent: And whereas certain of the provisions of the said first-recited charter or letters patent were accordingly abrogated or annulled, and other provisions were from time to time made in lieu thereof, for the better administration of justice in this Colony: And whereas it is expedient to amend and consolidate the laws bearing on the subject: It is therefore hereby enacted as follows:

1. This Ordinance may be cited for all purposes as "The Administration of Justice Ordinance, 1868." Short title.

2. Has had its effect.

3. Repealing clause.

4. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction. Interpretation clause.

"Her Majesty" shall include her heirs and successors:

"The Island" or "this Island" shall mean the Island of Ceylon and its dependencies:

"Supreme Court" shall mean the Supreme Court of the Island of Ceylon:

"Original courts" shall include district courts, courts of requests, and police courts:

"Queen's Advocate" shall include the Deputy Queen's Advocate for the Island, or any deputy to the Queen's Advocate within the limits of his circuit, province, or district:

"Coroner" shall include deputy coroner:

"Officer of police" shall include the Inspector General, provincial inspectors, superintendents, assistant superintendents, inspectors, serjeants, constables, and every other police and peace officer whatsoever, whether belonging to the ordinary police force or the village police of the country.

I.—Courts for the Administration of Justice.

Courts for the ordinary administration of justice.

5. The courts for the ordinary administration of justice, civil and criminal, within this Island shall continue, as heretofore, to be as follows:

1. The Supreme Court.
2. District courts.
3. Courts of requests.
4. Police courts.

Proviso.

Provided that nothing herein contained shall be held to affect the jurisdiction of any court which may be holden within this Island under or in pursuance of any statute in that case made and provided for the trial of offences committed on the seas, or within the jurisdiction of the Admiralty, or under any commission issued or to be issued by the Lord High Admiral of England, or the commissioners for executing his office, or the jurisdiction of justices of the peace, under and by virtue of any statute or local Ordinance or of village councils to regulate customs relating to the irrigation and cultivation of paddy lands, or of any special officer or tribunal duly constituted for any special purpose, or to try any special case or class of cases.

II.—Divisions of the Island for Judicial Purposes.

Division of the Island into circuits, districts, and divisions

6. For the purposes of the administration of justice in this Colony, the Island shall be divided into the district of Colombo, and three circuits to be called the midland circuit, the northern circuit, and the southern circuit, and the said district of Colombo, and each circuit shall be divided into the following districts:

The district of Colombo shall comprise four districts, as follows: Colombo, Negombo, Kalutara, and Ratnapura.

The midland circuit shall comprise and be divided into five districts, as follows: Kégalla, Kandy, Kurunégala, Badulla, and Nuwarakaláwiya South.

The northern circuit shall comprise and be divided into seven districts, as follows: Chilaw, Jaffna, Nuwarakaláwiya North, Mannár, Mullaittívu, Trincomalee, and Batticaloa.

The southern circuit shall comprise and be divided into three districts, as follows: Galle, Mátara, and Tangalla.

The said district of Colombo and the several circuits shall be further divided into divisions, as follows:

The district of Colombo into seven divisions, as follows: Colombo, Negombo, Pánaduré, Kalutara, Avisáwella, Pasyala, and Ratnapura.

The midland circuit into thirteen divisions, as follows: Kurunégala, Galagedere, Kandy, Mátalé, Dambulla, Panwila and Dumbara, Gampola, Náwalapitiya, Pussellá̀wa, Nuwara Eliya, Maturata, Badulla, and Haputalé.

The northern circuit into fifteen divisions, as follows: Chilaw, Puttalam, Kalpitiya, Mannár, Anurádhapura, Jaffna, Mallákam, Chávakachchéri, Point Pedro, Kayts, Mullaittívu, Trincomalee, Batticaloa, Karencotetívu or Nindoor, and Kalmain.

The southern circuit into five divisions, as follows: Balapitya, Galle, Mátara, Tangalla, and Hambantota.

Limits of each district or division to be defined by Governor, with the advice of the Executive Council.

The limits of each district and division shall be defined from time to time by proclamation to be for that purpose issued by the Governor, with the advice of the Executive Council; but until the limits be defined as aforesaid, the limits at present apportioned to each district and division in each circuit shall remain in force: Provided that it shall be lawful for the Governor, with the concurrence of the judges of the Supreme Court, or a major part of them, from time to time to revoke, alter, and amend the division of the Island into the district of Colombo and circuits, and, with the advice of the Executive Council, from time to time to revoke, alter, and amend the division of the said district of Colombo, and of each circuit into districts and subdivisions.

Proviso. Power to alter and amend divisions.

III.—The Supreme Court.

(1.) *Its Constitution.*

Supreme Court.

7. There shall continue to be within the said Island one Supreme Court, which shall be called "the Supreme Court of the Island of Ceylon."

To consist of the Chief Justice and two puisne justices.

Competency of Supreme Court not affected by a vacancy.

8. The said Supreme Court shall consist of and be holden by and before one chief justice, who shall be called "the chief justice of the Island of Ceylon," and two puisne justices. But upon the death, resignation, sickness, or incapacity of any judge, or in case of his absence from the Island, or his suspension from office, the said Supreme Court shall consist of and be holden by and before the two remaining judges until such vacancy shall be duly supplied, and the two remaining judges shall do every act and thing which the three judges of the said court are required and empowered to do collectively, in as full and ample a manner as if the three judges were present: Provided that if the two remaining judges shall not concur in opinion on any judgment, rule, or order to be pronounced or made, or in any act or thing to be

Proviso.

done by them collectively, the same shall be thereupon reserved for decision until three judges shall be present.

Judges how to be appointed.

9. The chief justice and puisne justices shall, as heretofore, from time to time be nominated and appointed to such their offices by letters patent to be issued under the public seal of this Island, in pursuance of warrants from time to time issued by Her Majesty, under the sign manual, and shall hold such their offices during her pleasure.

Governor may appoint judges provisionally.

10. Upon the death, resignation, sickness, or incapacity of the said chief justice or any of the said puisne justices, or in the case of the absence of any of them from the Island, or in the case of any such suspension from office as herein-after mentioned, the Governor may, by letters patent to be by him for that purpose made and issued under the public seal of the said Island, nominate and appoint some fit and proper person to act as and in the place of any such chief justice or puisne justice so dying or resigning or labouring under such sickness or incapacity, or being so absent from the Island, or being so suspended, until the vacancy so created shall be supplied by a new appointment, or until the chief justice or puisne justice so becoming sick or incapable, or being absent or suspended as aforesaid, shall resume such his office and enter into the discharge of the duties thereof.

The Governor when authorized to suspend a judge.

11. Nothing herein contained shall affect the right of the Governor, as set out in the royal charter of 1833, with the advice of the Executive Council, to suspend any judge of the said court from the exercise of his functions therein provisionally until Her Majesty's pleasure can be known ; but as it is expedient that no such act of suspension should take place except upon the most evident necessity, and after the most mature deliberation, and that, in any such event, the judge who may be so suspended should receive the most early, complete, and authentic information of the grounds of such proceedings against him : It is therefore declared, directed, and appointed, according to the provision in the said charter, that it shall and may be lawful for the Governor, by any order to be by him for that purpose made and issued under the public seal of the said Island, with the advice of the Executive Council, or the major part of them, upon proof of the misconduct or incapacity of any such chief justice or puisne justice as aforesaid, but not otherwise, to suspend him from such his office and from the discharge of the duties thereof : Provided that in every such case the said Governor shall immediately report for the information of Her Majesty, through one of her Principal Secretaries of State, the grounds and causes of such suspension, in order that Her Majesty, with the advice of the Privy Council, may either confirm or disallow any such suspension as to her shall seem fit ; and provided also that a full statement be entered on the minutes of the said Executive Council of the grounds of such proceedings, and of the evidence upon which the same may be founded, a full copy of which minutes and evidence shall by such Governor be transmitted to such judge, together with the order suspending him from such his office.

Rules to be observed in such case.

Rank of the chief justice.

12. Nothing herein contained shall affect the rank and precedence given to the chief justice by the royal charter of 1833

above and before all persons whomsoever within the said Island excepting the Governor or Lieutenant-Governor for the time being, and excepting such persons as by law or usage in England take place before the chief justice of the Court of Queen's Bench, and the rank and precedence given to the puisne justices by the said royal charter and letters patent, bearing date the twenty-second day of June 1859, above and before all persons whomsoever within the said Island, excepting the Governor or Lieutenant-Governor for the time being, the said chief justice, the officer for the time being commanding Her Majesty's forces in the said Island, and the Bishop of Colombo, and excepting such persons as by law or usage in England take place before the puisne justices of the Court of Queen's Bench; and the said puisne justices shall take rank and precedence between themselves according to the priority of their appointment respectively.

Rank of the puisne judges.

13. The Supreme Court shall continue to have and use, as occasion may require, a seal bearing a device and impression of the royal arms, with an exergue or label surrounding the same, with this inscription, "The Seal of the Supreme Court of the Island of Ceylon," and the said seal shall be kept in the custody of the said chief justice, with full liberty to deliver the same to any puisne justice of the said court for any temporary purpose, and, in case of the vacancy of or suspension from the office of the chief justice, the same shall be delivered over to and kept in the custody of such person as shall be appointed by the said Governor of the said Island to act as and in the place and stead of the chief justice.

Supreme Court to have a seal.

The custody of the seal.

14. No such chief justice or puisne justice as aforesaid shall be capable of accepting, taking, or performing any other office, place of profit or emolument within the said Island, on pain that the acceptance of such other office as aforesaid shall be, *ipso facto*, an avoidance of such his office of chief justice or puisne justice, as the case may be, and the salary thereof shall cease accordingly from the time of such acceptance of any other office or place: Provided that no such chief justice or puisne justice shall be rendered incapable of holding his office, or shall forfeit his salary, by accepting the office of judge of the Court of Vice-Admiralty in the said Island, or of commissioner for the trial and adjudication of prize causes and other maritime questions arising in India.

Judges incapable of holding other offices of profit.

Exception.

15. There shall be attached and belong to the said court an officer to be styled the registrar and keeper of records of the said court, and such and so many other officers as shall to the chief justice of the said court for the time being from time to time appear to be necessary for the administration of justice and the due execution of the powers and authorities which are granted and committed to the said court: Provided that no office shall be created in the said court unless the Governor of the said Island shall signify his approbation thereof to the said chief justice for the time being in writing under the hand of such Governor.

Ministerial officers of the court, their number how to be determined.

16. All the subordinate officers of the said court shall be appointed to such their offices by Her Majesty, or by the Governor of the said Island on her behalf: Provided that all persons who

Ministerial officers how to be appointed.

The judges to appoint their own private secretaries.

shall be attached to or hold any office in the said court as clerk or private secretary to any of the judges thereof shall be appointed to such office by the judge for the time being whom such person may so serve in any such capacity; but no person so holding the office of clerk or private secretary to any judge shall be allowed to plead or practise before the said judge on any circuit or in Colombo, or at any general session.

Subordinate officers to hold office during pleasure, but liable to suspension by the Court.

17. The several officers of the said Supreme Court shall hold their respective offices during pleasure, and shall be subject to be suspended from their offices therein by the said court for misconduct or other sufficient cause.

Admission of advocates and proctors.

18. The Supreme Court is authorized and empowered to admit and enrol as advocates or proctors in the said Supreme Court, and in any of the district courts of this Island, all such persons being of good repute as shall upon examination by one or more of the said justices of the said Supreme Court, or by any board or persons appointed by the said court, appear to be of competent knowledge and ability. Whenever the said Supreme Court shall refuse to admit and enrol any person applying to be admitted and enrolled as an advocate or proctor in the said Supreme Court, or in any district court, the judges of the said court shall, if required so to do by the applicant, assign and declare in open court the reasons of refusal. No persons whatsoever, not so admitted and enrolled as aforesaid, shall be allowed to appear, plead, or act in the said Supreme Court or any district court, for or on behalf of any other person being a suitor in the said court. Every person admitted and enrolled as an advocate or proctor of the Supreme Court, or of any district court, shall be subject to be removed by the judges of the said Supreme Court collectively, upon reasonable cause: Provided that every such advocate or proctor shall be subject to be suspended by any judge of the Supreme Court upon such cause as aforesaid.

Power to remove or suspend them.

(2.) *Its Jurisdiction and Powers.*

Appellate and original jurisdiction of Supreme Court.

19. The Supreme Court shall have and exercise an appellate and original jurisdiction:

Appellate jurisdiction for the correction of all errors, as hereinafter specified, which shall be committed by the said district courts, and courts of requests, and police courts, and sole and exclusive cognizance, by way of appeal, of all causes, suits, actions, prosecutions, matters, and things of which such district courts, courts of requests, and police courts, or any of them, may have taken cognizance by way of original jurisdiction.

Original jurisdiction for the inquiry of all crimes and offences committed throughout the said Island, and for the hearing, trying, and determining all prosecutions which shall be commenced therein against any person for or in respect of any such crimes or offences, or alleged crimes or offences.

Appellate jurisdiction to all errors of district courts, all errors

20. The appellate jurisdiction vested in the Supreme Court shall, as heretofore, extend to the correction of all errors in fact or in law which shall be committed by the district courts, to the cor-

rection of all errors in fact or in law which shall be committed by courts of requests in any final judgment or any order having the effect of a final judgment, and to the correction of all errors in law committed by police courts; but no judgment, sentence, or order pronounced by any court shall, on appeal, be reversed, altered, or amended on account of any error, defect, or irregularity which shall not have prejudiced the substantial rights of either party: Provided that the Supreme Court shall in no case entertain any appeal against the acquittal of any prisoner by a district court which shall be lodged by any private prosecutor, unless the Queen's Advocate shall certify, at any time before the hearing of the appeal, that in his opinion there exist reasonable grounds for such appeal.

of courts of requests in final judgments, and orders having effect of final judgments, and errors in law of police courts.

21. On the hearing of any case in appeal from any of the original courts, which said hearing shall take place in Colombo, it shall be competent to the Supreme Court, subject to the provisions in the preceding section contained, to affirm, reverse, correct, or modify any pleading, judgment, decree, or order, according to law, or to order a new trial, or a further hearing, upon such terms as the Supreme Court shall think fit; or, if need be, to receive and admit new evidence touching the matters at issue in any original cause, suit, or action, as justice may require: Provided that if the Supreme Court in Colombo shall see fit to order new evidence to be taken on circuit, it shall be competent to the single judge on circuit to take, receive, and admit such new evidence, and to hear and determine such appeal; and his decision upon such appeal shall be deemed and taken to be the judgment of the Supreme Court thereon.

Supreme Court may order new trial, further hearing, or may receive new evidence.

Proviso as to taking new evidence on circuit.

22. The Supreme Court, or any judge thereof, shall have full power and authority to inspect and examine the records of the original courts, to grant and issue, according to law, mandates in the nature of writs of mandamus, certiorari, procedendo, and prohibition against any judge, commissioner, magistrate, justice, or other person or tribunal, and to make order for the transfer of any cause, prosecution, matter, or thing depending before it in its original jurisdiction from the district of Colombo or any circuit to any other circuit, or any other place in the same circuit, or to the district of Colombo, or for the transfer of any cause, suit, or action, or of any prosecution, matter, or thing depending in any original court, to any other original court, if it shall be made to appear to the satisfaction of the said Supreme Court or judge thereof that there is sufficient cause or reason to conclude that the ends of justice will gain by such transfer; and in every such case the court to which any such cause, suit, action, prosecution, matter, or thing shall be so transferred shall take cognisance thereof, and have power and jurisdiction for the hearing, trial, and decision of the same, as fully and effectually to all intents and purposes as if such court had originally power and jurisdiction.

Supreme Court may inspect records, issue mandates, and transfer causes.

23. The said Supreme Court, or any judge thereof, shall be, and are hereby authorized, to grant and issue mandates in the nature of writs of habeas corpus to bring up the body of any

Supreme Court may issue writs of habeas corpus.

person who shall be imprisoned or unlawfully detained within any part of this Island, and to discharge or remand any person so brought up, or otherwise deal with such person according to law: Provided that it shall be lawful for the said Supreme Court or judge, in cases arising in places beyond the jurisdiction of the district court of Colombo, to require the body of such person to be brought up in the nearest original court, and to direct the judge, commissioner, or magistrate of such court to inquire into and report upon the cause of the alleged imprisonment or detention to the said Supreme Court or judge, and to make such provision for the interim custody of the body produced as to the said Supreme Court or judge shall seem right; and such Supreme Court or judge shall upon the receipt of such report make order to discharge or remand the person so alleged to be imprisoned or detained, or otherwise deal with such person according to law, and the said original court shall conform to and carry into immediate effect the order pronounced or made by the Supreme Court in the premises.

Proviso.

Supreme Court may grant injunctions.

24. The said Supreme Court, or any judge thereof, shall be, and is hereby authorized, to grant and issue injunctions to prevent any irremediable mischief which might ensue before the party making application for such injunction could prevent the same by bringing an action in any original court: Provided that it shall not be lawful for the said Supreme Court, or for any judge thereof, in any case to grant an injunction to prevent any person from suing or prosecuting a suit in any court, or to prevent a party to any suit in any court from appealing or prosecuting an appeal to any court of appeal, or to prevent any party to any suit in any original court, or in any court of appeal, from insisting upon any ground of action, defence, or appeal.

Power to reserve questions.

25. Whenever any question shall arise for adjudication, in any case coming before a single judge at any sittings of the Supreme Court at any circuit, or in the district of Colombo, which shall appear to such judge to be a question of doubt and difficulty, it shall be lawful for such judge to reserve such question for the decision of the judges collectively at Colombo.

And may make rules of court, as to the time, and place of sessions;

and as to the procedure, civil and criminal, of the Supreme and district Courts, and Fiscals;

and as to process, assessors, jurors, arrest, bail, & gaolers,

26. It shall be lawful for the judges of the said Supreme Court collectively from time to time to frame, constitute, and establish such general rules and orders of court as to them shall seem meet, touching and concerning the following matters:—(1) the form and manner of proceeding to be observed in the said Supreme Court at any general sessions, and at any civil and criminal sessions, and in the original courts; (2) the practice and pleadings upon all actions, suits, and other matters, both civil and criminal, to be therein brought; (3) the proceedings of the Fiscals and other ministerial officers of the said courts respectively; (4) the process of the said courts, and the mode of executing the same; (5) the mode of summoning, impannelling, and challenging of assessors and of jurors; (6) proceedings on arrest in mesne process, or in execution; (7) the taking of bail; (8) the duties of gaolers and others charged with the custody of prisoners, in so far as respects the making due returns to the respective judges of the

said Supreme Court of all prisoners in their custody; (9) respecting the mode of prosecuting appeals from the said original courts; (10) the admission of advocates and proctors, and the amount of fees to be lawfully demanded by and payable to them; (11) together with all such general rules and orders as may be necessary for giving full and complete effect to the provisions of this present Ordinance, in whatsoever respect the form and manner of administering justice in the several courts hereby constituted, and all such rules, orders, and regulations from time to time to revoke, alter, amend, or renew, as occasion may require: Provided always, that such rules and orders shall not be repugnant to or inconsistent with any of the provisions in this or any other Ordinance contained; and that it shall be the duty of the judges, and they are hereby required, so soon as any rule, order, or regulation has been framed by them, to transmit the same, under their hands and the seal of the said Court, to the Governor, by whom the same shall be laid, with all convenient despatch, in the form of an Ordinance, before the Legislative Council, to be considered and dealt with in such and the same manner as any other Ordinance, and no rule, order, or regulation shall operate or take effect until the same shall have been duly enacted: Provided further, that if any such Ordinance shall be disallowed by Her Majesty, any rule, order, or regulation which shall have been thereby enacted, shall cease to have operation and to take effect from and after the notification by the Governor of Her Majesty's disallowance thereof.

and as to appeals, and the admission of advocates and proctors,

Proviso. Rules not to be repugnant to any Ordinance, and must pass the Legislative Council.

Second Proviso. Rules to fail if Ordinance enacting be disallowed.

(3.) *Proceeding as respects the Appellate Jurisdiction of Supreme Court.*

27. The Supreme Court shall at Colombo hear and determine all appeals from final judgments in civil cases from the several district courts in this Colony: Provided that any two of the judges thereof shall form a quorum, and shall be competent to execute all and every the powers, jurisdictions, and authorities vested in the said court, except in hearings on review, preliminary to an appeal to the Privy Council, as hereafter directed; and, in the event of any difference of opinion between such two judges, the decision of the said court shall, in any such case, be suspended until all the three judges shall be present; and the decision of such two judges when unanimous, or of the majority of such three judges in case of any difference of opinion, shall in all cases be deemed and taken to be the judgment of the Supreme Court.

Final appeals from district courts to be heard in Colombo before three judges: two to form a quorum.

28. Appeals from judgments in criminal cases and from interlocutory and testamentary and matrimonial and insolvency orders in civil cases pronounced and made by district courts, and all appeals from courts of requests and police courts, may be heard, and all powers given to the Supreme Court in respect of such appeals may be exercised by any one judge of the Supreme Court sitting at Colombo: Provided, however, that nothing herein contained shall preclude such judge from reserving any such appeal

Appeals from criminal and interlocutory cases in district courts, or from courts of requests, to be heard by single judge.

for the decision of two or more of the judges of the Supreme Court.

Grounds of judgment in appeal to be recorded.

29. The grounds and reasons of the judgment of the Supreme Court upon every appeal shall be entered in the record of the judgment, decree, or order of the said court.

Time of hearing appeals.

Notice to be given.

30. The Supreme Court shall sit for the hearing of appeals and for the despatch of other business on such days throughout the year as shall be necessary for the prompt and regular disposal of the appellate business of the said court; and the registrar of the said court shall from time to time cause reasonable notice to be given by advertisement in the "Government Gazette" of the days appointed by the judges for the sittings of the said court in its appellate jurisdiction.

List of appeals to be affixed.

31. The registrar shall cause lists of all appeals to be prepared in the order of time in which he shall receive them, and affix a copy thereof in some conspicuous part of the court house; and all such cases shall be heard in the order in which they are entered, unless the court shall see cause to make some other disposition of the same.

Appeal not duly prosecuted may be dismissed.

32. In any case in which the appellant shall unduly neglect or fail to take the necessary steps for the prosecution of his appeal, the Supreme Court may, upon the motion of the respondent, make an order on the appellant to show cause why the appeal should not be dismissed for want of due prosecution; and if the appellant shall not after service of such order show sufficient cause against the same, the said court shall order such appeal to be dismissed for want of prosecution, and that the appellant do pay the costs incurred.

(4.) *Proceeding as respects the Original Jurisdiction of Supreme Court.*

Criminal sessions of the Supreme Court when and where holden.

33. Criminal sessions of the Supreme Court shall be holden by one of the judges thereof for the district of Colombo and in each of the circuits, for the hearing, trying, and determining all prosecutions which shall be commenced against any person for or in respect of any crime or offence, or alleged crime or offence.

For district of Colombo.

For the district of Colombo, four times at least in each year at Colombo and such other places in such district as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Colombo on the tenth day of January, on the twentieth day of March, on the tenth day of July, and on the tenth day of October of every year.

For midland circuit.

For the midland circuit, three sessions at least at Kandy, and any other session at such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Kandy on the tenth day of March, on the first day of August, and on the twentieth day of November of every year.

For northern circuit.

For the northern circuit, two sessions at least at Jaffna and such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such

sessions commencing at Jaffna in the month of January and in the month of July of every year.

For southern circuit.

For the southern circuit, two sessions at least at Galle and such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Galle on the twenty-fifth day of the month of April and on the fifteenth day of the month of September.

Provided that should any of the afore-mentioned days fall on a Sunday or on any public holiday, the sessions shall commence on the day following such Sunday or public holiday: Provided further, that it shall be competent to the Governor, for sufficient reasons to him appearing, to order, after previous consultation with the judges, other sessions to be holden at the places above mentioned, or at any other place in the district of Colombo or in any of the circuits, or to alter the dates above-mentioned and to fix any other date for the commencement of the sessions at any place.

Choice of circuits.

34. The chief justice shall first choose the circuit on which he will proceed, and then the second choice shall be made by the senior puisne justice.

The judge at the criminal sessions is to issue a mandate to all gaolers within the circuits to return a calendar of prisoners.

35. The judge before or on holding any criminal sessions of the Supreme Court shall and may issue his mandate directed to all and every of the Fiscals or other keepers of prisons within the limits of the district of Colombo or circuit for which the sessions are held, to certify to the said judge the several persons then and there in any of their custody committed for and charged with any crimes or offences whatsoever; and the said Fiscals or other keepers of prisons shall and are hereby required to make, certify, and transmit due returns to such mandate, by specifying in a calendar or list to be annexed to such mandate respectively the time and times when all and every of the said persons so in their custody were committed, and by whose authority, and on what charge or crime respectively, in writing; and to the said list or calendar shall also be annexed, if the judge shall so direct, such depositions as may have been taken against them, or any of them, as shall be in the hands of the said Fiscals or keepers of prisons, or true copies thereof attested by the said Fiscals or keepers of prisons respectively; and, if need be, according to the tenor and exigency of such mandate, such Fiscals or keepers of prisons shall bring the said persons so in their custody, or any of them, before the said judge wheresoever the said judge shall then be holding the criminal sessions of the said Supreme Court, together with the witnesses whose names shall appear to be written or endorsed on the respective commitments by virtue of which such prisoners were delivered into their custody respectively, in order that such prisoners may be dealt with according to law: Provided always, that whenever any party shall, after the making out of any such calendar or list, and while such judge shall be holding the criminal sessions of the said Supreme Court in the town or place wherein such calendar or list was delivered, be apprehended or committed on any criminal charge, it shall and may be lawful for the Queen's

The contents of the calendar.

The depositions on oath against any prisoner to be attached to it.

The gaolers to bring prisoners before the judge holding such criminal sessions, with the witnesses, whose names may be endorsed on the commitments.

Advocate to move the insertion of the name of such person in the calendar or list.

Criminal sessions, how to be holden.

36. Every criminal sessions of the Supreme Court shall be holden before a judge of the Supreme Court and a jury of thirteen men, who shall be selected, summoned, and required to appear and serve in such manner and form as shall be herein-after provided (sections 114–132).

At criminal sessions Supreme Court to exercise its original jurisdiction.

37. At every criminal sessions of the said Supreme Court so to be holden as aforesaid, the said Supreme Court shall inquire of all crimes and offences committed for the trial of which original jurisdiction is vested in the said Supreme Court, and which the Queen's Advocate shall elect to prosecute before such Supreme Court, and shall hear, try, and determine all prosecutions which shall be commenced by the said Queen's Advocate against any person or persons for or in respect of any crimes or offences, or alleged crimes or offences, committed within this Island or made triable here by any law now in force or hereafter to be enacted.

Objection to jurisdiction.

38. Whenever any prisoner or accused party shall have pleaded to any information exhibited against him in any session held at Colombo, or elsewhere, without pleading to the jurisdiction of the court, although it may appear in evidence that the crime or offence with which such person is charged was committed in the Island without the limits over which the said Supreme Court at such session shall have jurisdiction, the said court at such session shall have jurisdiction over such crime or offence in such and the same manner as if the crime or offence with which such person is charged had been committed within its jurisdiction.

Questions of fact on criminal prosecutions at such sessions how to be decided.

39. All questions of fact upon which issue shall be joined at any such criminal sessions as aforesaid of the said Supreme Court shall be decided by such jury of thirteen men as aforesaid; and the verdict of such jury shall be pronounced in open court by the mouth of the foreman, and if such jury shall not agree upon their verdict, then the verdict of the major part of such jury shall be received and taken as the verdict of the jury collectively.

All questions of law to be decided by the judge, who may reserve them for the decision of the whole court.

40. All questions of law which shall arise for adjudication at any such criminal sessions as aforesaid of the said Supreme Court, shall be decided by the judge presiding at such sessions, who shall pronounce his judgment thereupon in open court, saving nevertheless to every such judge the right of reserving such questions for the decision of the judges of the said Supreme Court collectively.

Sentence of death is to be respited till the case has been reported to the Governor.

41. In every case where any person shall be adjudged to die by any sentence of the Supreme Court at any such criminal sessions as aforesaid, the execution of such sentence shall be respited until the case of such person shall have been reported by the judge who shall have presided at such trial to the Governor, which report shall be made as soon after the passing of such sentence as conveniently may be. If the Governor shall not see fit to pardon the offender, or to respite the execution of the offender, or to commute his said sentence, the same shall be carried into execution by the Fiscal or Deputy Fiscal of the province or district within which such sentence shall be pronounced, or by any other Fiscal or Deputy

Fiscal, as the judge pronouncing the sentence or the Governor shall direct.

When sentence of death may be recorded.

42. Whenever any person shall be convicted of any crime, except murder, punishable with death, and the judge before whom such offender shall be convicted shall be of opinion that such offender is a fit and proper person to be recommended for the royal mercy, it shall be lawful for such judge to abstain from pronouncing judgment of death upon such offender, and instead thereof to order such judgment to be entered of record; and thereupon the proper officer of the court shall enter judgment of death on record against such offender in the usual form and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open court against such offender.

Record of judgment to have same effect as if pronounced.

43. A record of every such judgment so entered as aforesaid shall have the like effect to all intents and purposes, and be followed by all the same consequences, as if such judgment had actually been pronounced in open court, and the execution of such sentence had been respited by the court until the case of such offender had been reported by the judge who presided at the trial to the Governor; and the said judge shall, as soon as conveniently may be after recording such judgment as aforesaid, report the case to the Governor, together with the grounds on which such judge is of opinion that such offender is a fit and proper subject to be recommended for the royal mercy.

Proceedings on reserving questions of law on conviction.

44. When any person shall have been convicted of any crime or offence at any sessions of the Supreme Court, whether holden at Colombo or upon circuit, and the judge thereof before whom the case shall have been tried shall have reserved any such question as by the 40th clause he is empowered to reserve for the decision of the judges of the Supreme Court collectively, such judge shall respite execution of the judgment on such conviction, or postpone the judgment, as he may think fit, until such question shall have been considered and decided; and in either case the said judge in his discretion shall commit the person convicted to prison, or shall take bail from such person, with one or more sufficient sureties, and in such sum as he thinks fit, conditioned to appear at such time and at such place as the said judge or any other judge of the Supreme Court at any criminal sessions of the said court shall direct, and to receive judgment or to render himself in execution, as the case may be; and the said question shall be reported to and brought before the judges collectively after the trial of the said case, and thereupon the decision of the said judges on the said question shall be given in open court and recorded by the registrar; and if the conviction shall be held good by the said judges, and no judgment has been given thereon, the judge before whom the case was tried, or in case of his absence any other judge of the Supreme Court, shall, either at Colombo or at the place where the case was tried, pronounce judgment on the person convicted, and such judgment shall be recorded and entered in the calendar and signed by the judge and executed as in other

cases; or, if the conviction shall not be held good by the said judges, and the said person shall have been committed to prison, the judge before whom the case was tried, or any other judge, shall order the said person to be discharged from prison in respect of the said conviction, and he shall thereupon be discharged accordingly.

Prisoner committed for trial before Supreme Court to be tried at first session thereof;

45. If any prisoner committed for trial before the Supreme Court for any offence shall not be brought to trial at the first criminal session after the date of his commitment at which such prisoner might properly be tried, (provided twenty-one days have elapsed between the date of the commitment and the first day of such criminal session,) the said court, or any judge thereof, shall admit him to bail, unless good cause be shown to the contrary, or unless the trial shall have been postponed on the application of such prisoner; and if such prisoner is not brought to trial at the second criminal session of the Supreme Court holden after the date of his commitment at which such prisoner might properly be tried, unless by reason of the insanity or sickness of such prisoner, or by reason of his application for the postponement of such trial, provided six weeks at least shall have elapsed since the close of the first criminal session after the date of such commitment before the commencement of such second criminal session, and provided also that six months at least shall have elapsed between the date of the commitment and the commencement of such second criminal session, the judge of the said court presiding at such last-mentioned session shall, unless good cause be shown to the contrary, issue his order to the Fiscal for the discharge of such prisoner from his imprisonment for the offence for which he has been so committed for trial.

and if not brought to trial at second sessions after commitment, to be discharged from imprisonment.

After a party is discharged from gaol or on recognizance, he cannot be committed again for the same offence;

46. No person who has been discharged from gaol in consequence of not being brought to trial within the proper time, as in the last section provided, shall be subject to be recommitted to gaol for the same offence, except in the case herein-after mentioned; and no person who has been admitted to bail to appear and take his trial, and who has not been duly brought to trial, shall, unless he has forfeited his recognizance, or money deposited instead of bail, be obliged to find further bail, or shall be subject to be recommitted to gaol, except as herein-after excepted, for the same offence in respect of which he was originally admitted to bail: Provided always, that neither any such discharge from imprisonment, nor the expiration of his recognizance, shall be any bar to any person being brought to trial in any competent court for any offence for which he was originally committed for trial.

but may be brought to trial.

Person discharged from gaol on recognizance may be summoned to stand his trial.

47. Whenever after the expiration of the period aforesaid the Queen's Advocate, or private party entitled to prosecute before any district court, shall desire to put any party upon his trial for any offence for which he was originally committed for trial, he shall make application to the court competent to try such offence, for a summons to the party alleged to have committed the same, to appear before such court at the time and place mentioned in such summons, then and there to take his trial; and such

summons shall be served personally upon such party, or left at his usual place of abode; and if after due service of such summons such party shall nevertheless fail to appear as therein directed, he may be arrested by any officer of the law or private person and recommitted to gaol for trial; and until he shall be so recommitted his property shall be liable to sequestration in manner provided by law in respect of persons who have absconded or fled from justice.

Proceedings if party does not appear on recognizance to take his trial.

48. If the accused person shall commit any breach of his recognizance, the court may direct the fact to be entered on the minute; and the recognizance, or the money deposited instead of bail, as the case may be, is thereupon forfeited, and such proceedings may be taken for recovering payment of the amount of the recognizance as the law directs: Provided that in any case in which the accused shall have become bound to appear at any session of the Supreme Court, if at any time before the close of such session he shall appear and satisfactorily excuse his neglect, the court may direct the forfeiture of the recognizance or deposit to be discharged, upon such terms as are just.

Power to any judge of the Supreme Court to order restitution of property charged to have been stolen.

49. When any person shall have been tried at any criminal sessions of the Supreme Court for any crime or offence in stealing, or in unlawfully taking, obtaining, extorting, embezzling, converting, disposing of, or knowingly receiving any goods, money, valuable security, or other property whatsoever, it shall be lawful for any judge of the Supreme Court in his discretion, and whether or not the person so tried was convicted, from time to time to award writs of restitution for the said property or the proceeds thereof, or in a summary manner to order its restitution to the owner thereof: Provided that if it shall appear, before any award or order made, that any valuable security shall have been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had been stolen or unlawfully taken, obtained, extorted, embezzled, converted, or disposed of, in such case no award or order shall be made for the restitution of such security.

Provisions as to valuable and negotiable securities.

Power to other criminal courts to order restitution of property in cases of conviction.

50. Every other court of competent criminal jurisdiction before which any person shall have been tried for any such crime or offence and convicted thereof, shall have the same powers to order restitution of property as are therein vested in any judge of the Supreme Court.

Proviso.

Recognizances of accused parties and witnesses may be respited.

51. When any person charged with any crime or offence shall have entered into recognizance to appear and take his trial for the same, or when any person shall have entered into recognizance with or without sureties to appear and give evidence at the trial of any person charged as aforesaid, and the court before which such person shall have thereby become bound to appear and take his trial or to appear and give evidence, as the case may be, shall see fit to postpone the trial, in each of such cases it shall be lawful for such court to order the recognizance of any person so

bound and the obligation of his sureties to be respited and enlarged till such time as the said court shall appoint; and thereupon the condition of such recognizance and the obligation of the said sureties shall be extended to such time and place as shall be appointed in such order; and the parties, whether principal or sureties, bound by such recognizance shall continue liable thereunder as fully as if such extended time and place had been originally inserted in the condition thereof.

(5.) *Appeal from the Supreme Court to the Privy Council.*

Appeal to Her Majesty in her Privy Council reserved.

52. Nothing herein contained shall be held to affect the appeal to Her Majesty in her Privy Council, graciously granted by the royal charter of 1833, to any person being a party or parties to any civil suit or action depending in the Supreme Court, against any final judgment, decree, or sentence, or against any rule or order made in any such civil suit or action, and having the effect of a final or definitive sentence, and which said appeal shall continue to be subject to the following rules and limitations by the said charter prescribed.

Cause to be first heard at general sessions of Supreme Court.

First. That before any such appeal shall be so brought, such judgment, decree, sentence, rule, or order shall be brought by way of review before the judges of the said Supreme Court collectively, at which all the said judges of the said Supreme Court shall be present and assisting, which judges shall, by their rules and orders as aforesaid, regulate the form and manner of proceeding to be observed in bringing every such judgment, decree, sentence, rule, or order by way of review before them, and shall thereupon pronounce judgment according to law, the judgment of the majority of which judges shall be taken and recorded as the judgment of the said court collectively.

Amount appealable.

Secondly. Every such judgment, decree, order, or sentence from which such an appeal shall be admitted to Her Majesty, as aforesaid, shall be given or pronounced for or in respect of a sum or matter at issue above the amount or value of five hundred pounds sterling, or shall involve directly or indirectly the title to property or to some civil right exceeding the value of five hundred pounds sterling.

Application for leave to appeal to be made within 14 days.

Thirdly. The person feeling aggrieved by such judgment, decree, order, or sentence shall, within fourteen days next after the same shall have been pronounced, made, or given, apply to the said Supreme Court at such general sessions as aforesaid by petition for leave to appeal therefrom to Her Majesty in her Privy Council.

Judgment to be executed on securities being given for restitution.

Fourthly. If such leave to appeal shall be prayed by the party who is adjudged to pay any sum of money or to perform any duty, the said Supreme Court shall direct that the judgment, decree, order, or sentence appealed from shall be carried into execution if the party respondent shall give security for the immediate performance of any judgment, decree, or sentence which may be pronounced or made by Her Majesty in her

Privy Council, upon any such appeal, and until such security be given, the execution of the judgment, decree, order, or sentence appealed from shall be stayed.

Fifthly. Provided, nevertheless, that if the party appellant shall establish to the satisfaction of the said Supreme Court that real and substantial justice requires that pending such appeal execution should be stayed, it shall be lawful for such Supreme Court to order the execution of such judgment, decree, order, or sentence to be stayed pending such appeal, if the party appellant shall give security for the immediate performance of any judgment, decree, order, or sentence which may be pronounced or made by Her Majesty in her Privy Council, upon any such appeal.

Court may stay execution when justice requires it, appellant giving security.

Sixthly. In all cases security shall also be given by the party appellant for the prosecution of the appeal and for the payment of all such costs as may be awarded by Her Majesty to the party respondent.

Appellant to give security for prosecution of appeal and payment of costs.

Seventhly. The court from which any such appeal as aforesaid shall be brought shall, subject to the conditions herein-after mentioned, determine the nature, amount, and sufficiency of the several securities so to be taken as aforesaid.

Court to determine security.

Eighthly. Provided, nevertheless, that in any case where the subject of litigation shall consist of immoveable property, and the judgment, decree, order, or sentence appealed from shall not change, affect, or relate to the actual occupation thereof, no security shall be demanded either from the party respondent or from the party appellant for the performance of the judgment or sentence to be pronounced or made upon such appeal; but if such judgment, decree, order, or sentence shall change, affect, or relate to the occupation of any such property, then such security shall not be of greater amount than may be necessary to secure the restitution free from all damage or loss of such property, or of the intermediate profit which, pending any such appeal, may probably accrue from the intermediate occupation thereof.

If title to immoveable property be subject of appeal security not required; if occupation how to be determined.

Ninthly. In any case where the subject of litigation shall consist of money or other chattels, or of any personal debt or demand, the security to be demanded either from the party respondent or from the party appellant for the performance of the judgment or sentence to be pronounced or made upon such appeal, shall be either a bond to be entered into in the amount or value of such subject of litigation by one or more sufficient surety or sureties, or such security shall be given by way of mortgage or voluntary condemnation of or upon some immoveable property situate and being within such Island, and being of the full value of such subject of litigation over and above the amount of all mortgages and charges of whatever nature upon or affecting the same.

If moveable property be the subject of appeal, bond to be given.

Tenthly. The security to be given by the party appellant for the prosecution of the appeal and for the payment of costs shall in no case exceed the sum of three hundred pounds

Security for prosecution of appeal never to exceed 300*l.*

sterling, and shall be given either by such surety or sureties or by such mortgage or voluntary condemnation as aforesaid.

Appellant to be allowed three months to enter into securities.

Eleventhly. If the security to be given by the party appellant for the prosecution of the appeal and for the payment of such costs as may be awarded shall, in manner aforesaid, be completed within three months from the date of the petition for leave to appeal, then, and not otherwise, the said Supreme Court shall make an order allowing such appeal, and the party appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in her Privy Council, in such manner and under such rules as are observed in appeals made to the Privy Council from the plantations or colonies.

Application may be made to Her Majesty in Council against orders on the subject of securities.

Twelfthly. Provided, nevertheless, that any person feeling aggrieved by any order which may be made by, or by any proceedings of the said Supreme Court respecting the security to be taken upon any such appeal as aforesaid, shall be and is authorized by petition to Her Majesty in her Privy Council to apply for redress in the premises.

Reservation to Her Majesty of the right of admitting appeals without regard to these rules.

53. Provided always, as is also by the said charter provided, that nothing contained in the above-mentioned provision of the charter reserved herein doth or shall extend to take away or abridge the undoubted right or authority of Her Majesty to admit and receive any appeal from any judgment, decree, sentence, or order of the said Supreme Court, on the humble petition of any person aggrieved thereby, in any case in which and subject to any conditions or restrictions upon and under which it may seem meet to Her Majesty so to admit and receive any such appeal.

Transcripts of records to be transmitted to Her Majesty in Council.

54. In all cases of appeal allowed by the said Supreme Court or by Her Majesty, such court shall, on the application and at the costs of the party or parties appellant, certify and transmit to Her Majesty in her Privy Council a true and exact copy of all proceedings, evidence, judgments, decrees, and orders had or made in such causes so appealed, so far as the same have relation to the matter of appeal, such copies to be certified under the seal of the said court.

Supreme and original court to execute judgments pronounced by Her Majesty in Council on appeal.

55. The said Supreme Court and the original court from which appeal was first taken shall, in all cases of appeal to Her Majesty, conform to, execute, and carry into immediate effect such judgments and orders as Her Majesty in her Privy Council shall make thereupon, in such manner as any original judgment or decree of the said court can or may be executed.

IV.—District Courts, Courts of Requests, Police Courts.

(1.) *Constitution.*

Existing courts continued.

56. It shall be lawful for the Governor, by any proclamation to be by him for that purpose issued, to establish within each and every district of this Island one court to be called the district court of such district, and within each and every division of the district one court to be called the court of requests, and another court to be called the police court, and each district court, court of requests, or police court, shall be holden by and

before one person, to be called the district judge, commissioner of requests, and police magistrate respectively, and such courts shall be holden at such convenient place or places within such district or division as the Governor shall from time to time appoint: Provided that it shall be lawful for the Governor, as occasion may require, to appoint more than one district judge, commissioner of requests, or police magistrate to the same district court, court of requests, or police court respectively; and when ever any additional judge, commissioner, or magistrate shall be so appointed, then every such additional judge, commissioner, or magistrate shall have power and is hereby authorized to sit apart; and all and every the powers and jurisdiction vested in the district court, court of requests, or police court, when holden before one judge, commissioner, or magistrate, or in the single judge, commissioner. or magistrate thereof, shall be respectively exercised by every such additional judge, commissioner, or magistrate so sitting apart as aforesaid: Provided that the district courts, courts of requests, and police courts already established shall continue to exercise the jurisdiction and powers heretofore belonging to and now vested in such courts.

Governor may appoint additional district judges, commissioners of courts of requests, and police magistrates.

57. Every such district judge, commissioner, or magistrate shall be appointed by the Governor from time to time as occasion may require, subject to the pleasure of Her Majesty, and they shall hold office during pleasure.

Appointment of district judges, commissioners, and magistrates.

58. Every person who shall be appointed district judge, commissioner of requests, or police magistrate shall, before he shall begin to execute the duties of his office, take and subscribe the oaths of office and of allegiance, in the form set forth in the schedule B. hereto, before some district judge, commissioner, or magistrate, who is hereby empowered and required, upon application being made to him in that behalf, to administer the same; and such oaths shall be enrolled as of record in the court of such judge, commissioner, or magistrate as aforesaid, and a copy of such enrolment shall be forthwith transmitted to the registrar of the Supreme Court, to be filed of record in that court.

Judge, commissioner, or magistrate to take certain oaths.

59. It shall be lawful for the district judge, or additional district judge, in his discretion, at his own instance, or upon the application of any party in any cause or proceeding in the district court, to have three assessors associated with him at the hearing and decision of such cause or other proceeding; and such assessors shall be selected, summoned, and be otherwise subject to such rules as are herein-after prescribed.

Three assessors may be associated with district judge.

60. The ministerial and other subordinate officers of the said district courts, courts of request, and police courts respectively, shall respectively be appointed by the Governor, and shall hold office during pleasure. It shall, however, be lawful for any judge, commissioner, or magistrate to suspend any subordinate officer of his court from office for misconduct or other sufficient cause, and to appoint some other person to act in his stead until the Governor's pleasure shall be made known.

Appointment of subordinate officers of courts.

61. All advocates and proctors entitled to practise in the Supreme Court shall be entitled to practise in any district court,

Advocates and proctors.

court of requests, or police court; all persons admitted to practise as proctors in any district court shall be admitted to practise in such district court and in any court of requests or police court held within the district over which such district court shall have jurisdiction.

Abolition of existing or creation of new courts in which proctors practise.

62. Whenever any district court shall be abolished the proctors of the district court of such district shall be enrolled in the district court of any one of the districts into which the said abolished district shall be distributed or placed which they may elect; and whenever any new district shall be created it shall be competent for any proctor of any district court from which any part of such new district is taken to take his name from the roll on which it stands and to have his name enrolled in the district court of such new district.

Of the abolition or alteration of districts.

63. Whenever any district or division shall be abolished or its jurisdiction altered, whether territorially or otherwise, by any proclamation to be issued by the Governor for that purpose, every cause, suit, action, prosecution, complaint, matter, or thing which shall be then depending before the court of any district or division thereby abolished, or the jurisdiction whereof shall have been altered as aforesaid, shall or may be proceeded upon in the court in which it ought to have been instituted after any such proclamation shall have been issued; and all proceedings which shall thereafter be had in such cause, suit, action, prosecution, complaint, matter, or thing respectively shall be conducted in like manner as if such cause, suit, action, prosecution, complaint, matter, or thing had been instituted in such last-mentioned court; and all the records, muniments, and proceedings whatsoever belonging or appertaining to any such cause, suit, action, prosecution, complaint, matter, or thing, shall, after any such proclamation shall have been issued, be delivered over by the court in which such cause, suit, action, prosecution, complaint, matter, or thing shall be then depending, to the court in which such cause, suit, action, prosecution, complaint, matter, or thing ought to have been instituted, if it had been instituted after the time when any such proclamation shall have been issued: Provided always, that if in the case of any transfer being rendered necessary from any district court to any court of requests, any party in a suit or action shall make application to such district court to proceed with the hearing and decision thereof and not make such transfer as aforesaid, such court shall proceed to the hearing and decision of the same. If such decision shall be in favour of the party making such application, such party shall not be entitled to any costs incurred subsequently to such application, but the judge shall make such order as to costs as justice may require.

Transfer of cases to court of requests.

District Courts.

(2.) *Their Jurisdiction, Powers, and Proceedings.*

Jurisdiction of district courts.

64. Each of the said district courts (including those now established and those to be hereafter established) shall be a court of original jurisdiction in all civil, criminal, revenue, matrimonial, and testamentary matters, and shall also have jurisdiction over the

persons and estates of lunatics, minors, cestuique trusts, and trustees, and in any other matter in which jurisdiction has heretofore been, is now, or may hereafter be given to district courts by law.

Civil jurisdiction.

65. Each of the said district courts shall have cognizance of and full power to hear and determine all pleas, suits, and actions in which the party defendant shall be resident within the district in which any such suit or action shall be brought, or in which the cause of action shall have arisen either wholly or as to any part within such district, or where the land or other immoveable property in respect of which the action is brought lies wholly or partly within such district, or where a defendant, against whom judgment shall have been obtained in any place out of this Island, has property within such district: Provided that no such district court as aforesaid shall be competent to hold jurisdiction in or to hear or to determine any cause, suit, or action wherein the judge of such court shall himself be a party, plaintiff or defendant, but that every cause, suit, or action which according to the provisions aforesaid would have been cognizable in any district court if the judge of such court had not been a party thereto, shall in that case be cognizable in the court of any adjoining district.

If the district judge be a party, the court of the next adjoining district shall have cognizance of the cause.

Criminal jurisdiction.

66. Each of the said courts shall have full power and authority, and is hereby required, to hear, try, and determine all crimes and offences committed wholly or in part within the district to which such court may belong which by any law in force in this Colony are or shall have been made cognizable by a district court; and also all crimes and offences so committed as aforesaid for which no express punishment is or shall have been provided by such law, and which are not usually punishable by death, transportation, or banishment, or by any severer punishment than those herein-after mentioned; and also all crimes and offences so committed as aforesaid which shall by such law be punishable by no higher punishment than those herein-after mentioned, that is to say, imprisonment for a period of one year, fine or forfeiture to the amount of one hundred pounds, and corporal punishment to the extent of fifty lashes.

Amount of punishment.

67. It shall be competent for every such court to punish any person found guilty of any such crime or offence as aforesaid (where no other punishment is by such law as aforesaid expressly provided in respect thereof), either by imprisonment, with or without hard labour, for any period not exceeding one year, and by fine or forfeiture not exceeding one hundred pounds; or by imprisonment as last aforesaid, together with corporal punishment not exceeding fifty lashes; or by any two of the above-mentioned punishments; but no such court shall in any case whatever, unless express authority be hereafter given in that behalf, impose in respect of the same crime or offence the three punishments of imprisonment, fine, and lashes.

Where one of two punishments is, and the other is not,

68. Provided that whenever any crime or offence is expressly declared by such law as aforesaid to be punishable by one or both of two distinct modes of punishment, whereof one is, and the other is not, within the jurisdiction of the district court (whether

within the jurisdiction of a district court.

the infliction of both or either of such punishments be left to the discretion of the court, or the one is made contingent on the non-fulfilment of the other), it shall be competent for any district court (having in other respects jurisdiction to try the said crime or offence) to take cognizance of, determine, and dispose of such crime or offence, and to award in respect thereof the full amount of the punishment appointed in respect thereof as aforesaid.

District court may remove or abate the matter complained of.

69. And provided also, that in every case of continuing offence wherein a district court may legally exercise jurisdiction in respect of the punishment to be inflicted for any crime or offence declared to be punishable, such court shall also have authority and jurisdiction to remove or abate the act, matter, or thing complained of.

Revenue jurisdiction.

70. Each of the said district courts shall have full power and authority to entertain causes affecting the revenue, and to inquire of all offences whatsoever against the revenue laws of this Island, committed wholly or in part within the district to which such court may belong, and to hear, try, and determine all suits and prosecutions which shall be commenced by the Queen's Advocate against any person for or in respect of any such alleged offences, and to impose the fines, penalties, and forfeitures appertaining to such offences, although the same may exceed the sum which such courts are authorized to impose in the exercise of their ordinary criminal jurisdiction.

Matrimonial jurisdiction.

71. Each of the said district courts shall have and exercise an exclusive original matrimonial jurisdiction.

District courts to appoint administrators to the estates of intestates;

and to adjudicate upon the validity of wills;

and to grant probate;

and to appoint administrators;

and to take securities from executors and administrators;

and to call them to account and enforce the payment of or take security for balances;

72. Each of the said district courts shall have full power and authority to appoint administrators of the estates and effects of any persons dying within such respective districts intestate, or who may not have by any last will or testament appointed any executor or trustee for the administration or execution thereof, and like power and authority to inquire into and determine upon the validity of any document or documents adduced before them as and for the last will and testament of any person who may have died within such districts respectively, and to record the same and to grant probate thereof, with like power and authority to appoint administrators for the administration or execution of the trusts of any such last will or testament as aforesaid in cases where the executors or trustees thereby appointed shall not appear and take out probate thereof, or having appeared and taken out such probate, shall by death or otherwise become incapable to carry any such trusts fully into execution, and to take proper securities from all executors and administrators of the last wills and testaments of any deceased persons, or of the estates and effects of any persons who may have died intestate, for the faithful performance of such trusts and for the proper accounting to such courts respectively for what may come to their hands or be by them expended in the execution thereof, with like power and authority to call all such executors and administrators to account and to charge them with any balances which may be due to the estates of any such deceased persons, and to enforce the payment of any such balances, and

such executors and administrators from time to time to remove and replace as occasion may require.

and to remove and replace executors and administrators.

73. Each of the said district courts shall have the care and custody of the persons and estates of all idiots and lunatics and others of insane or non-sane mind resident within such districts respectively, with full power to appoint guardians and curators of all such persons and their estates, and to make order for the maintenance of such persons and the proper management of their estates, and to take proper securities for such management from such guardians and curators, and to call them to account, and to charge them with any balance which may be due to any such persons as aforesaid, or to their estates, and to enforce the payment thereof, and to take order for the secure investment of any such balances, and such guardians and curators from time to time to remove and replace as occasion may require.

District courts to have the custody of persons and estates of idiots and lunatics within the district.

74. The several jurisdictions so vested as aforesaid in the said district courts are and shall be exclusive jurisdiction, and shall not on any plea or pretext whatsoever be assumed or exercised by any other court, tribunal, or judge within the said Island, save and except the criminal jurisdiction herein-before vested in the Supreme Court, and in so far as cognisance of the same suits, causes, actions, prosecutions, matters, and things is herein expressly given by way of appeal to the Supreme Court aforesaid, or to the respective judges thereof, and also save and except in so far as the original jurisdiction in certain suits, causes, actions, prosecutions, matters, and things is herein-after vested in the said Supreme Court or in the respective judges thereof, and also save and except in so far as respects the jurisdiction of the Court of Vice-Admiralty in the said Island, and also save and except in so far as respects the jurisdiction of courts of requests and police courts.

Jurisdiction of district courts to be exclusive.

Exception.

75. Every final sentence or judgment of the said district courts respectively and every interlocutory order of the said courts having the effect of a final sentence or judgment, and every order of any such court having the effect of postponing the final decision of any cause or prosecution there pending, and any other order which to the judge of any such court may appear of adequate importance, shall by such judge be pronounced in open court; and such judge shall in all such cases state what are the questions of law and of fact which have arisen for adjudication and which are to be decided upon any such occasion, together with his opinion upon every such question, with the grounds and reasons of every such opinion; and where assessors are associated with the judge, every such assessor shall also in open court and in the presence and hearing of the judge and the other assessors declare his opinion and deliver his vote upon each and every question which the judge shall have previously declared to have arisen for adjudication, whether such questions shall relate to any matter of law or to any matter of fact: Provided that, in case of any difference of opinion between any such judge and the majority or the whole of such assessors upon any question of law or of fact depending before any such district court, the opinion of such judge shall

Judgments of district courts how to be pronounced.

Assessors to give their opinions and votes.

In case of a difference of opinion, that of the judge to prevail.

prevail and shall be taken as the sentence, judgment, or order of the whole court; but in every such case a record shall be made and preserved among the records of the said court of the questions declared by the judge to have arisen for adjudication, and of the vote of such judge and of every such assessor upon each such question.

But record to be made of questions and votes.

Penalty on party proceeding in district court where he might have proceeded in a court of requests.

76. If any action or suit shall be commenced in any district court for any debt or demand which might have been recovered in some court of requests, the plaintiff or plaintiffs in any such action or suit shall not by reason of any judgment for him or otherwise have or be entitled to any costs whatever, but it shall be competent for the judge to make such order as to costs as justice may require.

Where party dies in one district leaving property in another.

77. Where any person shall have died at any place out of this Island leaving property within this Island, or where any person shall have died leaving property in any district of this Island other than that in which he shall have died, or leaving property in more than one district, it shall and may be lawful for the Supreme Court, or any judge thereof, to make order directing and appointing such district court as to the said Supreme Court or judge thereof shall appear most expedient to have and exercise sole testamentary jurisdiction in respect of the property of the person so dying, and also to make order for the transfer of any cause, suit, or action pending in any other district court in regard to any probate or letters of administration relating to such property to the district court so appointed, and the court so appointed to have and exercise sole testamentary jurisdiction shall exercise the same, and the court to which any such cause, suit, or action shall be so transferred shall take cognizance thereof, and have power and jurisdiction for the hearing, trial, and decision of the same, as effectually to all intents and purposes as the district court in which the same was originally brought could or might have had.

Objection to jurisdiction of the court.

78. Whenever any defendant or accused party shall have pleaded in any cause, suit, or action, or in any prosecution brought in any district court, without pleading to the jurisdiction of such district court, neither party shall be afterwards entitled to object to the jurisdiction of such court, but such court shall be taken and held to have jurisdiction over the same: Provided that where it shall appear in the course of the proceedings that the suit, action, or prosecution was brought in a court having no jurisdiction by the mutual consent or connivance of the parties, and with previous knowledge of the want of jurisdiction of such court, the judge shall be entitled at his discretion to refuse to proceed further with the same, and to declare the proceedings null and void.

Appeal.

79. Any party who shall be dissatisfied with any judgment, decree, or order pronounced by a district court, may (excepting where such right is expressly disallowed) appeal to the Supreme Court against any such judgment, decree, or order for any error in law or in fact committed by such court, but no such appeal shall have the effect of staying the execution of such judgment or sentence unless the district judge shall see fit to make an order to that effect, in which case the party appellant shall enter into a

Appeal shall not suspend sentence.

Appeal shall

recognizance, with or without sureties, as the district judge shall consider necessary, to appear when required, and abide the judgment of the Supreme Court upon the appeal: Provided, however, that where any defendant has been sentenced to suffer corporal punishment, or to imprisonment at hard labour, the infliction of corporal punishment and the imposition of hard labour shall in all cases be stayed pending the appeal; but it shall be competent for the district judge to take security as aforesaid; or to detain such defendant in prison, in the same manner as a person committed for further examination; and if the sentence is confirmed on appeal it shall be carried into execution; but the imprisonment at hard labour (or of so much thereof as was unexpired when notice of appeal was given) shall be reckoned from the time when the gaoler has notice of the sentence having been affirmed, which notice the district judge is hereby ordered to give with all practicable speed.

not suspend execution.

Proviso in case of corporal punishment.

80. The district courts respectively shall in all cases of appeal to the Supreme Court conform to and execute all such judgments, orders, and decrees of the Supreme Court as shall be made and pronounced in appeal, in like manner as in any original judgment, order, or decree pronounced by the said district courts could or might have been executed.

District court to carry out orders in appeal.

COURTS OF REQUESTS.

(3.) *Their Jurisdiction, Powers, and Proceedings.*

81. Each of the said courts of requests shall be a court of record, and shall have cognizance of and full power to hear and determine all actions in which the debt, damage, or demand shall not exceed ten pounds, and in which the party or parties defendant shall be resident within the jurisdiction of such court, or in which the cause of action shall have arisen wholly or as to any part within such jurisdiction; and also all actions in which the title to, interest in, or right to the possession of, any land shall be in dispute, provided the value of such land or of the particular share, right, or interest in dispute in such action shall not exceed ten pounds, and the same or any part thereof is situate, or the party or parties defendant shall be resident, within the jurisdiction of such court: Provided always, that such court shall not have cognizance of any action for criminal conversation, or for seduction, or for breach of promise of marriage, or for separation *a mensa et thoro*, or for divorce *a vinculo matrimonii*, or for avoidance of marriage.

Jurisdiction of the court.

Proviso excluding certain actions.

82. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more suits in any of the said courts; but any plaintiff having cause of action for more than ten pounds, for which a plaint might be entered under this Ordinance if not more than ten pounds, may abandon the excess; and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding ten pounds; and the judgment of the court upon such plaint shall be in full discharge of all demands in

Demands not to be divided.

respect of such cause of action, and entry shall be made in the judgment accordingly.

Minors may sue for wages.

83. It shall be lawful for any person not of full age to prosecute any action in any court of requests which may be due to him for wages or piece work, or for work as a servant, artificer, or labourer, in the same manner as if he were of full age.

Costs.

84. It shall be lawful for the commissioner of every such court, in pronouncing his judgment or order in any case, to make such order respecting the payment of costs and expenses as to him shall appear just and reasonable, subject, however, to the limitation in the following section contained, and subject also to such rules as may be framed by the judges of the Supreme Court by virtue of the powers in them herein-before vested.

Appearance by advocate, proctor, or deputy.

85. Any party to an action before any court of requests shall be entitled to appear by his proctor (duly authorized in writing in that behalf) or advocate, or by any person specially allowed by the commissioner, on sufficient cause, to appear in such action instead of such party; but no person, not being a proctor or advocate, shall in any case be entitled to have or recover any sum of money for appearing or acting on behalf of such party; and no proctor or advocate shall be entitled to have or recover from the adverse party any costs for so appearing or acting in any case where the debt, damage, or demand claimed shall not exceed the sum of forty shillings: Provided that in all cases where such debt, damage, or demand shall exceed such sum, and in all cases where the title to, interest in, or right to the possession of, land shall be in dispute (whether the value thereof exceed such sum or not) the commissioner may award the cost of employing a proctor or advocate, according to such scale as the judges of the Supreme Court may, by the rules to be framed by them as aforesaid, limit and appoint.

Who may represent the Crown.

86. In every case instituted before a court of requests where the Crown shall be a party interested, it shall be competent for the Queen's Advocate, or any Deputy Queen's Advocate empowered to act within the province or district in which such court is held, or for the Government Agent, or Assistant Government Agent, or collector of customs of such province or district, or for any person authorized in that behalf by writing under the hand of the Queen's Advocate, or of any such Deputy Queen's Advocate, Government Agent, Assistant Government Agent, or collector of customs as aforesaid, to appear and to represent the Crown in such cases.

Judgment how to be enforced.

87. The judgment pronounced by the commissioner of any of the said courts shall in all cases, on application of the party interested therein, be enforced by execution against the property, or (under the provisions of the 165th section of the Ordinance No. 7 of 1853, "For regulating the due collection, administration, "and distribution of insolvent estates," or any other Ordinance to be in that behalf hereafter enacted) against the property and person of the party condemned therein.

Penalty on witnesses not attending, or on parties guilty of contempt.

88. It shall be lawful for the commissioner of any of the said courts to punish by a fine not exceeding one pound, or by imprisonment not exceeding fourteen days, any person summoned or

noticed to attend any such court, and not attending in pursuance of such summons or notice, or any person guilty of contempt to such court: Provided always, that every person charged with any such contempt, shall give bail, either on his own recognizance or on that of another person, (as the commissioner of such court shall consider necessary), for his appearance on the following day, and in default of giving such security shall be committed to prison till such following day; and if on such following day such person shall fail by his answers to satisfy the commissioner that no contempt was intended, the said commissioner may pass such sentence on such person as is herein-before declared.

Fines how to be recovered.

89. The payment of any fine imposed by any court of requests, under the authority of this Ordinance, may be enforced in manner provided for by the Ordinance No. 6 of 1855, "To amend the Ordinance No. 11 of 1844," or any other Ordinance to be in that behalf hereafter entered.

Persons committing perjury how to be dealt with.

90. If it shall appear to the commissioner of any court of requests that any person examined on oath or making affidavit has, in any proceeding whatsoever in any way connected with the said court committed wilful and corrupt perjury, the commissioner shall forthwith give information thereof to the Queen's Advocate, or to some Deputy Queen's Advocate empowered to act within the district; and until the decision of such Queen's Advocate or Deputy Queen's Advocate shall be made known to the commissioner, every such person will give bail, either on his own recognizance or on that of another person (as the commissioner shall consider necessary), for his appearance at such time and place as the said Queen's Advocate or Deputy Queen's Advocate may direct, or in default of giving such bail shall be committed to prison.

Appeal.

91. Any party who shall be dissatisfied with any final judgment, or any order having the effect of a final judgment, pronounced by the commissioner of any court of requests, may (excepting where such right is expressly disallowed) appeal to the Supreme Court against any such judgment or order, for any error in law or in fact committed by such commissioner.

Judgment in appeal how enforced.

92. The commissioner of such court of requests shall conform to and execute all such judgments, orders, and decrees of the Supreme Court as shall be made and pronounced in any appeal, in like manner as any original judgment or order pronounced by the said commissioner could or might have been executed.

Certain things required to be done by district courts to be done by commissioners.

93. Where, by any Ordinance heretofore enacted, certain things are required to be done before a district court, or by or before a judge or other officer of a district court, in relation to any cause, suit, action, matter, or thing which by this Ordinance is made cognizable by courts of requests, every such thing may and shall be done in like manner, or as near as may be, compatibly with the true spirit of such Ordinance, and with the constitution of such courts of requests, before such courts of requests, or by or before the commissioner or corresponding officer of such courts.

POLICE COURTS.

(3.) *Their Jurisdiction, Powers, and Privileges.*

Jurisdiction of the court.

94. Each of the said police courts shall have full power and authority, and is hereby required, to hear, determine, and dispose of, in a summary way, all crimes and offences committed wholly or in part within their respective jurisdictions, which by any law in force in this Colony are or shall have been made cognizable by a police court; and also all crimes and offences so committed as aforesaid for which no express punishment is or shall have been provided by such law, and which are not usually punishable by death, transportation, or banishment, or by any severer punishment than those herein-after mentioned; and also all crimes and offences so committed as aforesaid which shall by such law be punishable by no higher punishment than those herein-after mentioned, that is to say, imprisonment with or without hard labour for a period of three months, fine or forfeiture to the amount of five pounds, and corporal punishment to the extent of twenty lashes.

Amount of punishment.

95. It shall be competent for every such court to punish any person found guilty of any such crime or offence as aforesaid (where no other punishment is by such law as aforesaid expressly provided in respect thereof) either by imprisonment with or without hard labour for any period not exceeding three months, and by fine or forfeiture not exceeding five pounds; or by imprisonment as last aforesaid, together with corporal punishment not exceeding twenty lashes, or by any two of the above-mentioned punishments; but no such court shall, in any case whatever, unless express authority be hereafter given in that behalf, impose in respect of the same crime or offence the three punishments of imprisonment, fine, and lashes.

Where one of two punishments is, and the other is not, within the jurisdiction of a police court

96. Provided that whenever any crime or offence is expressly declared by such law as aforesaid to be punishable by one or both of two distinct modes of punishment, whereof one is, and the other is not, within the jurisdiction of the police court (whether the infliction of both or either of such punishments be left to the discretion of the court, or the one is made contingent on the non-fulfilment of the other), it shall be competent for any police court (having in other respects jurisdiction to try the said crime or offence) to take cognizance of, determine, and dispose of such crime or offence, and to award in respect thereof the full amount of the punishment appointed in respect thereof as aforesaid.

Police court having cognizance of any offence on its first commission shall have cognizance thereof on any subsequent commission.

97. And provided also, that every police court which shall have cognizance of any crime or offence upon the commission thereof for the first time, shall have like cognizance of such crime or offence upon any subsequent commission thereof by the same offender, and shall have full power to impose any punishment to which such offender shall be liable, whether the same would otherwise be beyond the jurisdiction of such court or not.

Police court may remove or

98. And provided also, that in every case wherein a police court may legally exercise jurisdiction in respect of the punish-

ment to be inflicted for any crime or offence declared to be punishable, such court shall also have authority and jurisdiction to remove and abate the act, matter, or thing complained of.

abate the matter complained of.

99. And provided lastly, that in case of the breach of any enactment made for the protection of the revenue, or of any enactment making penal any act not in itself a crime or offence, and which breach would not otherwise be cognizable by a police court by reason of the amount of punishment declared in respect thereof, or in any other case in which special provision is made to that effect by any law now in force or hereafter to be enacted, if a certificate shall be presented to any police court, signed by the Queen's Advocate or by some competent Deputy Queen's Advocate, or (in case of offences against the revenue) by the Government Agent of the province, or any of his assistants, to the effect that such officer is content that such offence or act shall be prosecuted before such court, it shall be competent for such court (having in other respects jurisdiction to try the same) to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as a police court is hereby empowered to award.

Police court may in certain cases take cognizance of matters not within its jurisdiction.

100. On any complaint being made to any such court, the party complainant shall be entitled to a summons against the party defendant; but if the magistrate shall at any time previous to the day appointed for hearing such complaint be satisfied by the oath or affidavit of the complainant or of any other person, that there is probable cause for believing that the defendant is about to leave the jurisdiction of the court, or is concealing himself with the view of evading the process of the said court, it shall be competent for the said magistrate to grant a warrant under his hand for the apprehension of the defendant: Provided that if any party making such oath or affidavit as aforesaid shall have wilfully stated a falsehood for the purpose of obtaining such warrant, he shall be deemed guilty of contempt of court.

Defendant may in certain cases be apprehended.

101. Every person lawfully apprehended within the jurisdiction of any police court for any crime, offence, matter, or thing cognizable by such court, shall be brought before such court without summons, if then sitting, immediately, or if otherwise on the first sitting thereof after his apprehension; and the magistrate of such court shall proceed forthwith to try him, or in the event of a postponement being necessary, may bind him over in recognizances to appear before the court on some early day, then and there to take his trial upon the charge preferred against him; or, in the event of his failing to enter into such recognizance, may commit him to prison until such early day: Provided always, that if any such person shall be so apprehended as aforesaid and lodged in any prison, or other place of detention, on the night preceding any Sunday or public holiday, it shall be lawful for the said magistrate to cause such person to be brought before him at an early hour next morning, and, after summary investigation, to commit him to prison till the next court day, or hold him to bail, or discharge him, as the circumstance of the case may require.

Proceedings upon apprehension.

Parties may be represented by counsel.

102. Every defendant before any police court shall be entitled to defend himself, either personally or by a proctor or advocate entitled to practise in such court, as provided by the 61st section; and every complainant shall likewise be at liberty to conduct the prosecution personally or by a like proctor or advocate as aforesaid; but nothing herein contained shall be deemed to dispense with the presence of any complainant or defendant at the hearing of the charge or complaint, unless the magistrate shall expressly so direct.

Where the charge appears to be beyond his jurisdiction the magistrate shall refer it to a justice of the peace.

103. If, in the course of any trial before the police court, it shall appear that the crime or offence under trial is from its nature or magnitude beyond the jurisdiction of such court, or that a crime or offence beyond the jurisdiction of such court was committed in the course of the same transaction and by the same person (the injured party being also the same), or that from the prisoner being an old offender, or from any special circumstances of heinousness in the case, it is desirable to send the case before a higher tribunal, the magistrate shall stop the trial, and either himself take proceedings in the matter as a justice of the peace, or order that the party charged shall, together with all the proceedings had in respect of such charge, be forthwith taken before some competent justice of the peace, to be dealt with according to law.

Magistrate may in certain cases bind over parties to keep the peace.

104. It shall also be competent for any magistrate, in any case where he shall be satisfied that the ends of justice would be sufficiently met by both or either of the parties being bound over to keep the peace, to require such parties or party to enter into a recognizance to Her Majesty, in any sum not exceeding thirty pounds, and with or without sureties, as the said magistrate shall direct, to keep the peace towards the Queen and all her subjects for such time, not exceeding three months, as the magistrate shall direct; and on default of any such party entering into such recognizance as aforesaid, the magistrate may sentence him to be imprisoned for any period not exceeding one month.

Persons committing perjury how to be dealt with.

105. If it shall appear to the magistrate of any police court that any person examined on oath or making affidavit has, in any proceeding whatsoever in any way connected with the said court committed wilful and corrupt perjury, the magistrate shall forthwith give information thereof to the Queen's Advocate; and until the decision of such Queen's Advocate shall be made known to the magistrate, every such person shall give bail, either with or without sureties (as the magistrate shall consider necessary), for his appearance at such time and place as the said Queen's Advocate may direct, or in default of giving such bail shall be committed to prison.

Penalty on false or frivolous prosecution.

106. Whenever it shall appear to the satisfaction of the magistrate of any police court that any prosecution has been instituted therein on false, frivolous, or vexatious grounds, such magistrate may adjudge the party who has instituted the same to pay a fine not exceeding one pound, as well as the reasonable expenses of the defendant, and of such witnesses as shall have attended at such prosecution, as to the said magistrate shall seem fit. Before any such fine is inflicted the party is to be asked to show cause why he

should not be so fined, and is to have a reasonable opportunity for showing cause; and if any party adjudged to make payment of such expenses shall fail to make the same at such time and place as the magistrate shall direct, it shall be lawful for the said magistrate to enforce payment of the same in such and the same manner as he would proceed to enforce payment of any fine imposed by him.

Penalty on disobedience or contempt.

107. It shall be lawful for the magistrate of any police court to cause to be apprehended and to punish by a fine not exceeding one pound, or by imprisonment not exceeding fourteen days, any person summoned or noticed to attend such court, and not attending in pursuance of such summons or notice, or any person guilty of contempt to such court: Provided always, that every person charged with any such contempt shall give bail either with or without sureties (as the magistrate shall consider necessary) for his appearance on the following day, and in default of giving such bail shall be committed to prison till such following day; and if on such following day such person shall fail by his answers to satisfy the magistrate that no contempt was intended the said magistrate may pass such sentence on him as is herein-before declared.

Appeal to the Supreme Court.

Appeal shall not suspend execution.

108. Any party who shall be dissatisfied with any final judgment or sentence pronounced by a police magistrate may (excepting where such right is expressly disallowed) appeal against the same for errors of law to the Supreme Court. No such appeal shall have the effect of staying the execution of such judgment or sentence unless the magistrate shall see fit to make an order to that effect, in which case the party appellant shall enter into a recognizance, with or without sureties, as the magistrate shall consider necessary, to appear when required and abide the judgment of the Supreme Court upon the appeal: Provided, however, that where any defendant has been sentenced to suffer corporal punishment, or to imprisonment at hard labour, the infliction of corporal punishment, and the imposition of hard labour, shall in all cases be stayed pending the appeal; but it shall be competent for the magistrate to take security as aforesaid, or to detain such defendant in prison, in the same manner as a person committed for further examination; and if the sentence is confirmed on appeal it shall be carried into execution; but the imprisonment at hard labour (or of so much thereof as was unexpired when notice of appeal was given) shall be reckoned from the time when the gaoler has notice of the sentence having been affirmed, which notice the magistrate is hereby ordered to give with all practicable speed: Provided further, that nothing herein contained shall prevent any police magistrate by whom any child shall be sentenced to receive moderate chastisement ordering such chastisement to be inflicted immediately after the sentence.

Proviso in case of corporal punishment.

Judgments in appeal how enforced.

109. The police court shall conform to and execute all such judgments or orders of the Supreme Court as shall be made or pronounced on any such appeal as aforesaid, in like manner as any original judgment or sentence of the said police court could or might have been executed.

Certain things required to be done by district court may be done by police court.

110. Where, by any Ordinance heretofore enacted, certain things are required to be done before a district court, or by or before a judge or other officer of a district court, in relation to any cause, matter, or thing which by this Ordinance is made cognizable by police courts, every such thing may and shall be done in like manner, as near as may be, compatibly with the true spirit of such Ordinance and with the constitution of such police courts, before such police courts, or by or before the magistrate or corresponding officer of such courts.

V.—Criminal Prosecutions and Crown Suits.

Offences may be prosecuted without the intervention of Queen's Advocate.

111. Except as is herein provided, all crimes and offences cognizable before the supreme or district court shall be prosecuted, and all fines, penalties, and forfeitures recoverable therein shall be sued for and recovered, in the name of the Queen's Advocate of this Island (and not in that of any Deputy Queen's Advocate), and by the Queen's Advocate or by some Deputy Queen's Advocate by an information to be exhibited without the previous finding of any inquest by any grand jury or otherwise; and all suits and actions which shall be instituted in any district court at the instance of the Crown shall be instituted in the name of the Queen's Advocate, and the Crown may be represented in every court in which it is a party interested by the Queen's Advocate or some Deputy Queen's Advocate empowered to act within the district, or by some advocate or proctor authorized to appear in that behalf by writing under the hand of the Queen's Advocate or of the Deputy Queen's Advocate for the Island: Provided that whenever any person shall have been duly committed by any justice of the peace for trial before any district court for any crime or offence cognizable by such court, it shall be lawful for such court, and the judge of such court is hereby required, unless an information in the name of the Queen's Advocate shall have been previously exhibited in such court in respect of such crime or offence, and unless the Queen's Advocate or by some Deputy Queen's Advocate shall have previously directed the said crime or offence to be prosecuted before the Supreme Court, to take the complaint in respect of such crime or offence from the mouth of the party injured, or of any person whose name shall appear as a witness for the prosecution in the proceedings relating to such crime or offence transmitted to such district court by the justice of the peace before whom such proceedings shall have been had, and the district judge shall thereupon proceed with the hearing and decision of such complaint without any information or other similar formality being necessary.

Queen's Advocate may stop prosecutions commenced by him.

112. The Queen's Advocate shall have the power at any time before conviction of abandoning and putting an end to all prosecutions commenced by him in any court in this Island on behalf of the Queen; but in the event of the prisoner having previously pleaded to any charge, he shall, upon the prosecution being so put an end to, be entitled to an acquittal in respect of such charge.

113. It shall at any time be competent for the Queen's Advocate to appear in the district or police court by himself, or any advocate or proctor authorized by him in that behalf in writing, and to take up at any stage thereof the prosecution of any complaint which shall have been commenced therein by any private party, and to assume the entire management of the proceedings in such case, or to apply by motion to the judge or magistrate of such court to stop all further proceedings therein, in order that the prosecution for the same crime or offence may be instituted at the instance of the Queen's Advocate in the Supreme Court, or recommenced at the like instance in any other court, or until the private party, having commenced such prosecution, shall produce to such judge or magistrate a certificate signed by the Queen's Advocate that he is at liberty to recommence such prosecution; and such judge or magistrate shall in every such case make an order in compliance with such motion, and all such proceedings so stopped shall be deemed and taken to be null and void and of no effect.

Queen's Advocate may intervene in or stop prosecutions.

114. The Queen's Advocate shall have full power and authority to order the liberation of any person committed to gaol for further examination or for trial, for which liberation a writing directed to the keeper of the gaol in which such person is imprisoned, and setting forth that the Queen's Advocate has no ground for prosecuting such person, and subscribed by him, shall be a sufficient warrant, and such keeper of gaol shall immediately, upon the liberation of any such person in pursuance of such order, give intimation thereof to the court or to the justice of the peace before whom such person stood committed to appear.

Queen's Advocate may order liberation of persons committed to gaol

115. The right of prosecution for murder or treason shall not be barred by any lapse of time, but the right of prosecution for any other crime or offence (save and except those in which special provision shall have heretofore been or shall hereafter be made by Ordinance) shall be barred by the lapse of twenty years from the time when the crime or offence shall have been committed.

Twenty years a bar to prosecution, excepting in murder and treason.

116. Neither the alleged commission of a crime or offence, nor the conviction nor acquittal of any person of a crime or offence, shall be a bar to a civil action for damages against such person at the instance of any person who may have suffered any injury, or who may allege that he has suffered any injury, from or by reason of the commission of any such crime or offence.

Conviction or acquittal no bar to any civil action against such person.

117. All suits instituted in the name of the Queen's Advocate on behalf of the Crown for the recovery of any debt, damages, or demand, or to obtain possession of any property, provided the amount or value in dispute exceeds ten pounds, may be instituted and prosecuted, in the discretion of the Queen's Advocate, in the district court held at the principal town of the province in which the defendant resides, or in which the cause of action shall have arisen wholly or as to any part, or in which such property is situated; and all suits instituted by any private party against the Queen's Advocate wherein the amount or value in dispute exceeds ten pounds, shall, unless the Queen's Advocate consents to forego such right, be instituted and prosecuted in the district court held at the principal town of the province in which the act,

Suits by the Queen's Advocate for sums exceeding 10*l.* may be instituted in the principal district court of the province in which the defendant resides or the cause of action arose.

Also suits in which the

Queen's Advocate is defendant.

matter, or thing in respect of which any such suit shall be brought shall have been done or performed, or in which the property in dispute is situated ; and the said district court shall have cognizance of and power to hear and determine such suits as if the cause of action had arisen within the district.

One day in each week to be appointed for the trial of Crown suits, on which day such suits shall have pre-audience.

118. A separate roll or list of suits in which the Queen's Advocate is a party, to be called "the Queen's Advocate's trial roll," shall be kept in every district court in the Island ; and as soon as issue is joined in any such suit either party may cause it to be set down therein for trial or for argument, as the case may require, by the secretary of such court, and the court shall appoint one day in every week for the hearing of suits entered on such roll, on which day such of the said suits as are ready for hearing shall be called on and heard before the other business of the court for such day is entered upon : Provided that nothing herein contained shall be construed to prevent the said court adjourning the hearing or the further hearing of any such suit to any other day, or specially fixing the hearing of any suit in which the Queen's Advocate is a party for any day to be appointed for the purpose, if the court shall see fit.

Proviso.

In what court offences declared punishable by fine or imprisonment generally may be tried.

119. Where any crime or offence is declared by this or any other Ordinance to be punishable by such punishment as the court before which such conviction shall be obtained shall award, or by such fine or imprisonment, with or without hard labour, as the court before which such conviction shall be obtained shall award, such crime or offence may be tried in any court having criminal jurisdiction which the Queen's Advocate may elect for the prosecution of such crime or offence, jurisdiction for such purpose being hereby given to such court; but the accused person shall, in case of conviction, receive no larger amount of fine or longer term of imprisonment than the court by which he is tried shall be empowered to award in the exercise of its ordinary jurisdiction. Such right of electing the court may be exercised by the Queen's Advocate, though the maximum punishment, if the same be prescribed, shall exceed that which a police or district court is empowered to award.

VI.—Jurors and Assessors.

Qualifications of jurors and assessors.

120. Every male, except as herein-after excepted, between the ages of twenty-one years and sixty years, residing within this Island, who shall be of sufficient intelligence and respectability, and shall be able to speak, read, and write any of the languages following ; that is to say, English, Sinhalese, or Tamul, and who shall possess such income or property as is herein-after mentioned, subject, however, to the proviso herein-after contained, and who shall not have been convicted of any infamous crime, unless he shall have obtained a free pardon, or who does not labour under any such bodily or mental incapacity, or does not profess any such religious tenets, as render him unfit to discharge the duties of the office, shall be qualified and shall be liable to serve as a juror in the Supreme Court of this Colony, and as an assessor in the

district court of the district within which he shall be a resident: Provided always, that no person shall be liable to serve as a juror at any sessions of the Supreme Court, or as an assessor at any district court, who shall not reside within the circuit or district and within thirty miles in a straight line of the place where such sessions or court shall be holden. Proviso.

121. All members of the Executive and Legislative Councils and the clerk of the said councils, all judges of the Supreme Court and their private secretaries, and all judges, commissioners, and magistrates of all other courts at present or hereafter to be established, and all officers of all such courts; all advocates and proctors duly admitted by the Supreme Court and actually practising, and their clerks, apprentices, and pupils; all habitual petition drawers; all clerks and interpreters to justices of the peace; all coroners; all officers of police; all Fiscals and their officers; all prison officers; all post office, railway, and telegraph officers; all peace officers; all persons serving in Her Majesty's navy or army on full pay or active employment; all clergymen in holy orders, and ministers of the gospel who shall follow no occupation except that of a schoolmaster; all persons duly admitted to practice as physicians, surgeons, surgeon apothecaries, apothecaries, or accoucheurs, and actually practising; all schoolmasters; all keepers of houses of correction or of lunatic asylums; shall be and are hereby absolutely free and exempted from serving as jurors or assessors in any court in this Island: Provided always, that nothing herein contained shall be construed to incapacitate any such person from serving as a juror or assessor who shall be willing so to serve, and if the presiding judge shall consent to such person serving. Persons exempted. Proviso.

122. The Fiscals of the several provinces and circuits of this Island shall prepare or cause to be prepared, in the first week of January in the year 1869, or as soon thereafter as may be, and afterwards in the year 1871, and every second succeeding year in the first week of January, or as soon thereafter as may be, for each of the provinces, three several lists of all men resident therein respectively, who shall be qualified to serve as jurors and assessors, and who shall not be within any of the exceptions above mentioned, setting forth their names, occupations, and places of residence; (that is to say,) Jurors and assessors to be arranged under three lists.

A list of persons who can speak, read, and write the English language, and each of whom possesses an income of not less than 50*l.* a year.

A list of persons who can speak, read, and write the Siṇhalese language, and each of whom possesses, in his own or in his wife's right, property, moveable or immoveable, not less than 50*l.* in value, or an income of 25*l.* a year.

A list of persons who can speak, read, and write the Tamul language, and each of whom possesses in his own or his wife's right property, immoveable or moveable, not less than 50*l.* in value, or an income of 25*l.* a year.

Provided always, that if any person who shall be able to speak, read and write more than one of the above-mentioned languages, Proviso.

and shall be in other respects duly qualified, shall at any time declare to the Fiscal his desire to be placed on any one of the lists of his district in preference to another, the Fiscal shall, if such person be duly qualified, place him accordingly in such place in such list as to the Fiscal shall appear most convenient; and no person whose name shall be placed on any one of the three above specified lists shall be liable to serve on any other of the said lists, unless such person and the presiding judge shall be consentient thereunto: Provided further that it shall be competent for the Governor, with the advice of the Executive Council, by proclamation to be by him for that purpose issued, to dispense with the qualification as to income or property, or to reduce the amount thereof, in any district of this Island in which sufficient panels cannot be secured of jurymen having the income or property herein prescribed.

Further proviso.

Necessary alterations from time to time to be made in lists.

123. It shall be lawful for the said Fiscals, and they are hereby required, from time to time to insert in their lists of jurors and assessors, in whatever place shall appear to them most convenient, any name that may have been erroneously omitted therefrom, or the name of any person who shall subsequently to the formation thereof have become qualified to be placed thereupon, and strike out the names of such persons as shall have been erroneously inserted in the said lists, or shall have become permanently exempted or incapacitated from serving as jurors and assessors.

Publication of jury lists; objections thereto.

124. The said Fiscal shall, as soon as such lists have been so prepared as aforesaid, cause the same to be published in the "Gazette," and any person who shall think any name erroneously inserted or omitted in or from such lists may at any time within a fortnight after the publication of such lists make written application to the Fiscal to have such name struck out or inserted, as the case may be; and the Fiscal on receiving such written application shall forthwith make inquiry respecting the same, and shall reject the application or comply with the prayer thereof, according as he shall consider just and right; and no person whose name is on such lists shall be entitled as a matter of right to dispute his liability or qualification to serve before the judge of any court to which he may be summoned as a juror or assessor: Provided that it shall always be lawful for any judge in his discretion to take notice, and if necessary to make summary inquiry as to the liability, qualification, and fitness of any person summoned to serve as a juror or assessor before him, and to order, if to such judge it shall seem fit, that such person shall be relieved or dismissed from serving as a juror or assessor, and to order, if to such judge it shall seem fit, that such person's name shall be struck off the lists of jurors and assessors herein-after mentioned; and it shall further be lawful to any judge of the Supreme Court at any criminal session thereof to order and to cause to be inserted in the said lists the name of any person who shall appear to such judge to have been erroneously omitted therefrom, and such insertion shall have the same effect as if the name had been originally placed in the said lists.

Similar discretionary power to insert name.

125. As soon as any such lists of jurors and assessors shall have been published in the "Gazette" as aforesaid, such lists shall (subject to the power of amendment and addition herein-before contained) be taken and held to be the true and lawful jury lists and assessors lists for the residue of the then current year and the then following year, and for so much of the after ensuing year as may elapse before fresh lists are prepared and published as above directed; and the Fiscal of every province shall prepare and keep fair and legible copies, certified under his hand, of the yearly jury and assessors lists in force, showing all such alterations and additions as may have been made thereon, and specifying by what authority every such alteration or addition was made; and such certified copies shall be filed together, in the order of time and place, and shall be open to inspection by anyone at proper and reasonable times, and after proper application; and every such list shall be produced by the Fiscal before the judge of the Supreme Court presiding at any criminal session of the said court: Provided that, at the first sessions for the district of Colombo and for the northern circuit for the year 1869, jurors may be summoned from the lists now in force, if there be not sufficient time for the preparation of the new lists prescribed by this Ordinance.

Lists after publication to be considered the true lawful lists.

126. The panels of jurors who are to serve at each criminal session of the Supreme Court shall be prepared and taken from the said jurors lists according to the order in which their names stand in the lists, except in cases where strict observance of such order shall appear calculated to cause extreme hardship or inconvenience, in which cases the Fiscal may once pass over the name of any juror in preparing the panel for the then ensuing session; but every such case of passing over any juror's name shall be stated in writing, with the reason for such passing over, to the judge who presides at the session; and every person whose name shall have been so passed over, and every person who shall make default, shall be peremptorily summoned to serve at the next session, under penalty of a fine not exceeding treble the amount to which ordinary defaulters in serving are herein-after made liable; and where there is a new list the Fiscal shall, in taking panels from it, begin with the name after the last name on the last panel taken from the old list.

Panels to be prepared from lists in rotation.

127. The panel of English, Siṇhalese, and Tamul jurors shall each consist of any number not exceeding twenty-six, inclusive, according to the Fiscal's discretion; and the presiding judge at any criminal session of the Supreme Court shall have power from time to time to order fresh names to be added or fresh panels to be prepared and fresh jurors summoned, at his discretion.

Each number of panel.

128. No juror shall be compellable to serve or attend for more than five days in any one week, or for more than ten days in any one session; and no juror who resides at a greater distance than ten miles in a straight line from the place of trial shall be compellable to serve or attend at more than one sessions in the course of the same year.

How often each juror compelled to serve.

129. The number of jurors by whom every criminal case at any criminal session of the said Supreme Court shall be tried shall be thirteen, and if they do not agree upon a verdict, then the

Number of jury at trial and at inquests.

verdict of the major part of such jury shall be received and taken as the verdict of the jury collectively. On all inquests to be held by the coroner the number of jurors shall be not less than five nor more than thirteen.

Three peremptory challenges allowed on each side.

130. The number of peremptory challenges herein-after to be allowed shall be three for the defence and three for the prosecution: Provided that where two or more persons are tried together on one information, they shall agree together as to their peremptory challenges of persons called to serve as jurors on their trial, and the number of such challenges which shall be allowed to them shall not in any case exceed the number of such challenges allowed to one single accused party. Each side shall have the right to challenge any number of jurors on showing such cause for so challenging as may appear fair and reasonable to the presiding judge; and the judge shall have power at his discretion to inquire summarily into the truth of any facts asserted in such challenge for cause and are disputed by the other side; and the decision of the presiding judge as to allowing or disallowing such challenges shall in all respects be final.

Number of challenges for cause unlimited.

Jury how to be chosen where Queen'sAdvocate and prisoner's counsel disagree.

131. If the Queen's Advocate and the prisoner, or his advocate or proctor. shall disagree as to which panel the jury to try any case shall be selected from, the judge shall make such selection as shall appear to him most conducive to the ends of justice.

Sufficient number of jurors summoned when not present how to be made up.

132. When a case shall be called on for trial at any criminal sessions of the Supreme Court, and a sufficient number of jurors belonging to the panel from which it has been decided that the jury to try such case shall be taken shall not be in attendance, or shall not be available by reason of challenges or other good cause, it shall be lawful for the judge to issue his order that as many men of the bystanders or neighbours, being qualified and liable to serve as jurors, as shall be sufficient to make up a full jury for the trial of such case, shall be forthwith summoned by the Fiscal, and every such person shall be liable to be challenged for good cause or peremptorily, in like manner as other jurors: Provided always, that no persons shall serve together in such case if any valid objection shall be raised under the provisions of this Ordinance to their so serving.

Proviso.

Place of jurors dying or taken ill during trial, how to be filled up.

133. If during any trial before the Supreme Court any juror shall die or be taken seriously ill, or be otherwise incapacitated from performing his duty as a juror, it shall be lawful for the judge to issue his order to the Fiscal to summon some one of the bystanders or neighbours to serve in his place, who shall be qualified and liable to serve as a juror, and to whose so serving no valid objection either by way of challenge or otherwise shall be made, and the said juror and the other jurors originally empannelled shall thereupon be sworn, and the evidence of such witnesses as may have been already examined shall then be read over to the jury from the judge's notes, and the trial shall proceed as if no such interruption had occurred.

Penalty or neglect of juror or assessor.

134. If any person having been duly summoned to attend as a juror or assessor at any sessions of the Supreme Court, or before any district court, shall not attend pursuant to such summons, or being thrice called shall not answer to his name, or after his

appearance shall refuse to take the oath or perform the duties of a juror or assessor, or shall wilfully withdraw himself from the said court, unless he shall have been adjudged by the said court to be exempt or disabled or disqualified, or unless some good and sufficient excuse shall be proved to the satisfaction of the judge presiding at the said sessions or in such district court, every such person shall be liable for every such neglect or refusal or withdrawal, at the discretion of such judge, to the payment of any fine not exceeding five pounds.

Penalty on attempting to corrupt juror or assessor.

135. Every person who shall corruptly influence, or attempt corruptly to influence, any person summoned as a juror or assessor to attend before any court, and every person so summoned consenting thereto, and every person who shall hold out any threat to any person summoned as a juror or assessor, in order to influence his verdict or vote or expression of opinion, and every person who shall assault another on account of any verdict or vote, or opinion given or expressed, or supposed to have been given or expressed, by such other person as a juror or assessor, shall be guilty of an offence, and be liable, on conviction thereof, to imprisonment, with or without hard labour, for any period not exceeding three years, or to corporal punishment not exceeding one hundred lashes, or to both, at the discretion of the court.

Penalty for not giving full name to Fiscal.

136. If any person on demand by the Fiscal, or some person duly authorized in writing by the Fiscal, shall fail or refuse to deliver in writing his name at full length for the purposes of this Ordinance, he shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds.

Penalty on headman making false returns.

137. If any headman or peace officer, or other person who shall have been required by any Fiscal to make any return of persons qualified and liable to serve as jurors and assessors shall wilfully, or from gross negligence, omit to include in such return the name of any person which ought to be included, every such headman, officer, or person shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding five pounds.

Proceedings not invalidated owing to informality in list or defect as to qualification.

138. No judgment, sentence, order, verdict, or other proceeding by, of, at, or before the Supreme Court, at any criminal sessions thereof, and nothing done in pursuance of the same, shall be held invalid or illegal, or be in any way called in question, by reason of any informality in or about the preparation or publication or amendment of any list or lists of jurors or of any jurors lists or of any panel, or by reason of any defect or error in or about the qualification or liability of any juror.

VII.—Justices of the Peace.

Appointment of justices.

139. The Governor and the officers (whether holding office permanently or temporarily) enumerated in the schedule C. hereto shall be *ex-officio* justices of the peace for the Island. It shall be further lawful for the Governor from time to time, by notice in the "Government Gazette," to appoint such persons as shall be named therein to act as justices of the peace for the Island, or within such districts or portions thereof as to the said Governor shall

Oaths.

seem expedient. Every justice of the peace shall take and subscribe the oaths of allegiance and office set forth in the schedule B. hereto, before some district judge, commissioner of court of requests, or police magistrate; and every such judge, commissioner, or magistrate is hereby empowered and required, upon application in that behalf, to administer the same, and to enter in the records of his court that the said oaths were duly administered and taken before him, and forthwith to transmit a copy of every such entry to the registrar of the Supreme Court, to be entered in the records of that court; and the Governor may at any time remove any person appointed to act as justice of the peace from his said office.

Removal from office.

Duties and powers of justice.

140. Every justice of the peace shall have power and is hereby required to perform the following duties, to wit:

(1.) To administer any oath which any person may be legally entitled to make before a justice of the peace:

(2.) To preserve the public peace, and for that purpose to call to his aid and assistance all officers of police, and all headmen whatsoever, and all military officers, and others Her Majesty's subjects, to quell all riots, brawls, and other disturbances, and lodge all rioters, brawlers, vagrants, and disturbers of the peace in any prison in the district for which he is assigned to act, to be dealt with according to law:

(3.) To inquire into all crimes and offences committed or alleged to be committed within his jurisdiction, or which jurisdiction is given to him to inquire into, and for that purpose to summon and examine all witnesses touching such crimes and offences, and to summon or apprehend, and cause to be summoned or apprehended, all criminals and offenders, and to deal with them according to law, and to search or cause to be searched all places wherein any stolen goods, or any goods, articles, or things with or in respect of which any offence has been committed, are alleged to be kept or concealed; and,

(4.) To require persons to furnish security for the peace or for their good behaviour according to law.

(1.) *Apprehension of Offenders.*

Justice may arrest or order arrest of persons whom he sees offending.

141. It shall be lawful for any justice of the peace who has knowledge of any crime or offence, by having seen it committed within his district, to arrest the offender, or by a verbal order authorize others so to do, and all persons so authorized are hereby required to follow such offender, and to arrest him within such district at any time within twenty-four hours after the commission of such crime or offence.

Proceeding in case of complaint.

142. Whenever a complaint is made on oath before a justice of the peace that any person has committed or is suspected to have committed any crime or offence within the district for which such justice is assigned to act, or that such person is known or suspected on reasonable grounds to be within such district, or

whenever a justice shall himself see any person commit any crime or offence, or assist in the commission thereof, it shall be lawful for the said justice, if the crime or offence be triable by police courts, to order a summons, and, in all other cases, at his discretion, either a summons or a warrant for the apprehension of such person: Provided that if the justice shall be satisfied or have reason to believe that the accused person is about to abscond, or that his presence cannot be promptly secured by summons, he may, even in cases triable by police courts, instead of issuing a summons, issue his warrant in the first instance for the arrest of any such accused person.

Summons. Warrant or summons. Proviso.

143. If the person served with a summons shall not appear before the justice at the time mentioned in such summons, and the justice shall be satisfied that such summons was duly served in what shall be deemed by the justice to be a reasonable time before the time therein appointed for appearing to the same, or if it shall appear to the justice that after due diligence the summons could not be served, the justice may issue his warrant to apprehend the accused person.

If summons ineffectual, warrant.

144. Every Fiscal and his deputies and others his officers, and all officers of police and headmen whatsoever, within the limits for which they are respectively empowered to act, are hereby authorized and required to arrest every person who shall commit any crime or breach of the peace in their presence, as also every person whom they shall have reasonable grounds to suspect of having committed any treason, misprision of treason, murder, culpable homicide, rape, robbery, or assault with intent to commit any of those crimes, or in which a dangerous wound is given, arson, housebreaking with intent to commit any crime, or of having committed theft of any cattle, or any other crime of equal magnitude with any of the crimes aforesaid, as also every person whom they shall see engaged in committing or instigating any affray, or whom they shall find attempting to commit a crime or clearly manifesting an intention so to do; and after apprehending such offender, or after receiving any offender or property in charge from any private person as herein-after provided, the Fiscal or other officer shall immediately convey the same before some competent justice of the peace or police magistrate, as the case may require, to be dealt with according to law.

Duty of Fiscals, officers of police, headmen, &c., to arrest offenders.

145. Every private person, when called upon by any Fiscal or his deputy or others his officers, or by any officer of police, or by any headman, is hereby authorized and required to assist such officer in making any arrest which by this Ordinance such officer is authorized to make, or in suppressing any riot or affray, or in the prevention of any breach of the peace.

All persons required to assist in making an arrest when called upon;

146. Every private person in whose presence any murder, culpable homicide, treason, misprision of treason, rape, robbery, or assault with intent to commit any of those crimes, or in which a dangerous wound is given, arson, housebreaking with intent to commit any crime, theft of any cattle, or other crime of equal magnitude with any of the crimes aforesaid, is committed or attempted to be committed, and every private person who has

and to pursue and arrest in certain cases;

knowledge that any such crime has been recently committed, is hereby authorized and required to arrest or forthwith to pursue the offenders, and every other private person to whom the purpose of such pursuit shall be made known is hereby authorized and required to join and assist in the same ; and every private person who on such pursuit being made shall come up with any person having in his possession the property which has been stolen, or with any person whose traces have conducted his pursuers from the place where the crime was committed to the place where he shall be overtaken, is hereby authorized and required to arrest such person so having such stolen property in his possession, or so being traced as aforesaid.

and may arrest upon suspicion in certain cases, but on their peril;

147. It shall be lawful for any private person to arrest any other person upon reasonable suspicion that he has committed any of the crimes specified in the preceding clause, or any other crime of equal magnitude ; but every arrest or attempt to arrest made by any private person upon suspicion shall be made at his own peril if the party so arrested or attempted to be arrested be innocent.

and must lay hold of any person committing an affray in their presence.

148. Every private person is hereby authorized and required to lay hold of any person whom he may see engaged in committing or instigating any riot or affray, in order to prevent such person from continuing the riot or affray, and to suppress the same.

Summon or form of warrant.

149. Every summons or warrant issued by a justice shall be signed by such justice, and shall be in the forms (D. and E.) in the schedule hereto, or to the like effect.

To whom directed, and how to be executed.

150. A summons or warrant shall ordinarily be directed to the Fiscal of the district, and every Fiscal and his deputies and others his officers, and all headmen and peace officers, are authorized and required to obey, serve, and execute every summons or warrant issued or indorsed by any justice of the district for which the above officers have been appointed to act anywhere within such district: Provided that every other officer of police is hereby authorized to serve such summons or execute such warrant: Provided further, that the justice issuing the warrant may, if he see fit so to do, direct the warrant specially to any person, and a warrant so specially directed shall have effect and may lawfully be executed without the endorsement hereunder required anywhere within the Island.

Proviso.

Proviso special as to warrants.

Service of summons.

151. The summons shall be served personally, or in case the accused person shall not be found it may be left for him with some adult person residing with him. If there is no adult person on whom the service can be made, the serving officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Warrant may be directed to several persons.

152. A warrant may be directed to several persons, and when so directed may be executed by all or by one or more of such persons.

Execution of a warrant within or without jurisdiction of justice issuing.

153. A warrant issued by a justice shall ordinarily be executed within the jurisdiction of the justice of the district in which it was issued. If the person against whom the warrant issued shall escape, go into, or be in any place out of the jurisdiction of such justice, the warrant must be produced to a justice of the district within

whose jurisdiction the arrest is to be made; and every justice, on production to him of any such warrant, and upon his satisfying himself that the signature to such warrant is in the handwriting of the justice by whom it purports to be granted, is hereby authorized and required to make his endorsement thereon, and to cause the same to be executed by some proper officer within his district, or by the person so producing it.

Endorsement.

154. Every officer or person to whom any warrant for the apprehension of any party shall be directed shall be authorized in execution thereof to follow and seize such party wherever he may be within the limits for which such officer or person is empowered to act, and if necessary, after having given sufficient intimation of his object, and not obtaining admission, to break open or otherwise forcibly enter any house, building, or place in which he shall have reasonable ground for supposing such party to be.

Houses may be broken open to execute warrants.

155. The officer or other person executing the warrant shall take the person arrested before a justice of the district within whose jurisdiction the arrest was made. If the offence with which the person arrested is charged be bailable, and such person shall be willing and ready to give bail for his appearance before the justice by whom the warrant was issued, the justice before whom such person is brought may take bail of such person for his appearance accordingly, and may release him from custody, and forward the recognizance or other bail bond to the justice by whom the warrant was issued.

Person arrested must be taken before justice of district where he was arrested.

156. The person arrested shall be subjected to no more restraint than is necessary to prevent his escape.

No unnecessary restraint.

157. No police officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure; but no police officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

No threat, promise, or caution as to disclosure by party arrested.

158. It shall be competent to a justice issuing a warrant for the arrest of a person out of his jurisdiction to direct the warrant to the justice of the district in which such person is, or is supposed to be, and to transmit the same by post. On receipt of the warrant by the justice to whom it is directed he shall endorse his name on such warrant and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the person named in the warrant be apprehended, he shall be carried before the justice who endorsed the warrant, and shall be dealt with by such justice as provided in the 155th section of this Ordinance.

Warrant to be endorsed may be sent by post.

159. On the arrest of a person for whose apprehension a warrant has been issued in respect of an offence known or suspected to have been committed in another district, the justice who issued the warrant shall, unless he is authorized to complete the inquiry himself, send the person arrested to a justice within the limits of whose jurisdiction the offence is known or suspected to have been committed, or he may in his discretion take bail for his appearance

Proceeding where offence was committed out of jurisdiction of justice issuing warrant.

before such justice, if the offence of which such person is suspected is bailable.

Justice may direct bail to be taken.

160. It shall be in the discretion of the justice in issuing his warrant for the arrest of any person against whom a complaint has been made to direct by endorsement on the warrant that if such person be willing and ready to give bail in a sum to be fixed by the justice for his appearance before him on a specified day, to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release the person from custody. In the event of bail being given the officer shall forward the bail bond to the justice.

Offenders or property seized by private person to be given into charge of nearest police or peace officer.

161. Every private person taking any offender or property under the authority of any of the preceding clauses shall forthwith give the same in charge of the nearest officer of police or peace officer of the district in which such offender or property shall have been so taken ; and every private person failing to perform any of the duties before imposed upon him by this Ordinance, without good and sufficient excuse, shall be guilty of an offence, and be liable on conviction thereof to the payment of any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

When officer may break open house.

162. It shall and may be lawful for every officer who shall be authorized to arrest any person known or suspected to have committed any crime or offence for that purpose to break open or otherwise forcibly enter and search any house in which such person is known or suspected to be : Provided always, that such officer shall have previously failed to obtain admission, after having audibly demanded the same, and notified the purpose for which he seeks to enter such house.

Proviso.

Neglect by Fiscal and other officers.

163. Every Fiscal and his deputy or officer, and every headman and constable, and every officer of police, who shall refuse or neglect to perform any duty imposed upon him by this Ordinance shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Penalty on officer taking bribes, &c.

164. If any Fiscal, or his deputy or officer, or any headman or any officer of police whatsoever, shall take, or offer to take, or shall ask or demand any sum or sums of money or other bribe, under promise to conceal any crime or offence, or to favour the concealment or escape of any person charged with or suspected of or guilty of any crime or offence, or for any purpose whatsoever, or if any such officer shall use or threaten to use any power, authority, or privilege of his office to support or countenance a false accusation knowing it to be false, or shall use the like power, authority, or privilege to conceal any offence, or to favour the concealment or escape of any such person charged with an offence, or if any such officer shall wilfully give false information, or wilfully and deliberately make false statements, for the like purpose and with the like intent, every such officer shall on conviction thereof be liable to such punishment, by fine and imprisonment, with or without hard labour, as the court before which such conviction shall be obtained shall award : Provided, however, that the fine

shall in no case exceed one hundred pounds, or the period of imprisonment three years.

165. Every person who shall assault or resist, or shall aid in assaulting or resisting, or shall incite to the assault of or resistance to any such officer or private party in the execution of any duty imposed upon him by this Ordinance, and every person who shall hinder, disturb, or molest, or aid in or incite to the hindrance, disturbance, or molestation of any such officer as aforesaid, or any private person in the execution of any duty imposed upon him by this Ordinance, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months, or to both.

Penalty on assaulting or molesting officer.

166. Every person who shall wilfully give false information to any justice of the peace or officer of police, with intent either to support a false accusation, or to prevent the detection of any offence against the law committed by another, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months, or to both.

Penalty on giving false information to officer.

167. No person shall in any case under any pretence whatsoever be kept or detained in confinement for a longer period than twenty-four hours by any officer authorized to apprehend offenders, unless Sunday or some public holiday shall intervene, without being taken before some competent justice or police magistrate; and whenever any person shall be so brought before any justice charged with any offence triable only before the Supreme Court, such justice shall give immediate notice of the time when such person is to be brought before him for examination to the Queen's Advocate or to some Deputy Queen's Advocate empowered to act within the district, if any such officer shall be resident within a convenient distance, in order that he may be present and assist if he think proper at such examination; and every such officer and every private person detaining any person in custody beyond such time, unless on account of the impassable state of the roads or rivers, or of some other sufficient cause, or frivolously or vexatiously arresting any person, shall, over and above his liability to any action for false imprisonment or other liability, be guilty of an offence, and be subject, on conviction thereof, to such punishment by fine or imprisonment, with or without hard labour, as the court before which such conviction shall be obtained shall think proper to award.

Person to be taken before justice or judge within 24 hours after apprehension.

Penalty on illegal detention or frivolous arrest.

(2.) *Escape.*

168. If a person lawfully arrested shall escape or be rescued, it shall be lawful for the officer or person from whose custody the person so arrested shall have escaped, or have been rescued, to make fresh pursuit, and retake him in any place, either within or without the jurisdiction where he was so in custody, and to deal with such person as such officer or person might have done on an original taking.

Retaking on escaping.

Proceedings thereon.

169. In order to retake any person, as provided in the last preceding section, the officer or person making such fresh pursuit may adopt such measures as he might have adopted on the original taking.

Penalty on escaping or assisting another to escape.

170. Every person lawfully arrested who shall escape or attempt to escape, and every person who shall rescue or assist in the escape or attempt to escape of one lawfully arrested, or who shall harbour any person who shall have so escaped, whether an escape be actually made or not, and whether the person escaping or attempting to escape be guilty or innocent of the charge for which he shall have been arrested, shall be guilty of an offence, and be liable on conviction to such punishment, by fine or imprisonment, with or without hard labour, as the court before which such conviction shall be obtained shall award.

(3.) *Where Offenders abscond.*

Proclamation for an absconding party.

171. If any person accused of an offence absconds or conceals himself so that upon a warrant issued against him he cannot be found, the justice shall, if satisfied that such person absconds or conceals himself for the purpose of avoiding his seizure, issue a written proclamation requiring such person to appear to answer the complaint within a fixed period not less than thirty days. The proclamation shall be publicly read in some public part of the town or village in which such person usually resides, shall be affixed on some conspicuous part of the ordinary place of abode of such person, and shall be otherwise published in such manner as shall be sufficient to secure the greatest publicity thereto. A copy of the proclamation shall also be affixed on some conspicuous part of any of the court-houses or kachchéries in the district.

Sequestration of his property if he fail to appear.

172. If any person accused of an offence other than those triable by police courts shall fail to appear in pursuance of the proclamatiom under the preceding section, it shall be lawful for the district court having jurisdiction in the place where the offence shall be alleged to have been committed, or where such accused person shall have resided, if it shall be made to appear to such court, by the informations taken upon oath by any justice of the peace, that a crime or offence has been committed, and that proclamation has been duly made under the said section, but that the said accused person has failed to appear, to order the sequestration of the property of such person, movable or immovable, and to appoint such fit and proper persons to manage the same as to the court shall appear expedient; and the persons so appointed shall account for such property, and for all profits accruing therefrom, to such court at such times as such court shall appoint and direct. If the accused person shall not appear within six months from the date of the order of sequestration the property sequestered shall be declared to be at the disposal of the Government, and the same may then or at any time thereafter be sold: Provided that such district court may order the sale of the property at any time before the expiration of the six months if it be of a perishable nature, or if it shall appear to the court that such sale would be

for the benefit of the owner, and in that case the proceeds of such sale shall, at the expiration of the six months as aforesaid, be declared to be at the disposal of the Government.

Restoration of property declared to be forfeited.

173. When any person whose property shall have been declared to be at the disposal of Government under the preceding section shall within two years after the sequestration of the property surrender himself, and shall before a competent court prove to the satisfaction of such court that he did not abscond or conceal himself for the purpose of evading justice, such property, or if the same shall have been sold the proceeds thereof, shall be restored to him. After that time the property shall absolutely vest in the Crown.

(4.) *Search Warrants.*

Search for stolen goods and other articles when necessary.

174. Every justice of the peace, upon any information taken upon oath being transmitted to him by any other justice of the peace, or upon any information being sworn to before himself, that there is reason to suspect that any stolen goods or any goods, article, or thing with or in respect of which any crime or offence has been committed, or which is necessary for the proof of such crime or offence, are kept or concealed in any house or place within the district in which such justice is assigned to act, may, by warrant under his hand, cause every such house or place to be searched; and it shall be lawful for the officer charged with the execution of such warrant to search for such goods, article, or thing in such house or place within the jurisdiction of such justice.

Search warrant liable to same provisions as warrants for arrest of persons.

175. A search warrant shall, as respects its direction, transmission by post, endorsement, and execution, be subject to the provisions herein contained in respect of warrants for arrest of persons, so far as the same are applicable thereto: Provided that in any case in which there is reason to believe that the delay occasioned by obtaining the endorsement of the justice in whose district the warrant is to be executed will prevent the discovery of the object for which search is to be made, the justice issuing the search warrant may, by the warrant, order search to be made without obtaining the endorsement of the justice within whose jurisdiction the search is to be made, or the officer charged with the execution of the search warrant may execute the same in any place beyond the jurisdiction of the justice by whom it was issued without the endorsement of the justice in whose jurisdiction that place is situate. If the object for which search is made is found at such place it shall immediately be taken before the justice in whose jurisdiction it is found, who, unless there be good cause to the contrary, shall make an order authorizing it to be taken to the justice who issued the warrant.

Persons in charge of dwelling-house, &c. to allow the search.

176. If the house or place to be searched be closed it shall be the duty of any person residing in or in charge of such house or place, on demand of the officer or other person executing the warrant, to allow such officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

177. An officer or other person authorized by a warrant to search any house or place may break open any outer or inner door or window of the house or place, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Search to be made in presence of witnesses.

Occupant may attend.

178. The search of any house or place under this Ordinance shall be made in the presence of two or more respectable persons, but such persons shall not be required to attend the inquiry as witnesses unless specially summoned by such justice. The occupant of the house or place or some person on his behalf shall in every instance be permitted to attend during the search.

(5.) *Summoning of Witnesses.*

Summons to a witness to attend and give evidence.

179. The justice shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall issue his summons to such persons, requiring them to appear at a time and place mentioned in the summons before such justice to testify what they know concerning the complaint against the accused person.

Service of summons.

180. Every summons issued by a justice under the last preceding section shall be served as directed by the 151st section.

In what cases warrants may issue first.

181. If the justice shall see reason to believe that such witness will not attend to give evidence without being compelled to do so, it shall be lawful for such justice, instead of issuing his summons, to issue his warrant in the first instance.

Disobedience of summons.

182. If any person summoned to give evidence shall neglect or refuse to appear at the time and place appointed by the summons, and no just excuse shall be offered for such neglect or refusal, it shall be lawful for the justice, upon proof of the summons having been duly served, to issue a warrant to bring such person before him to testify as aforesaid.

(6.) *Preliminary Hearing.*

How the justice is to act when any offender is brought before him.

183. When any person charged with any crime or offence is brought before any justice of the peace for examination, such justice, before commencing the examination of any witness, shall satisfy himself that the person so charged is in his sound and sober senses, and he shall then proceed to examine on oath each witness apart from the others, and the depositions of such witness shall be reduced into legible writing in presence of the person charged, who shall be entitled to cross-examine every such witness; and the depositions of witnesses which shall have been taken in the absence of the person charged shall be read over to him, and in the presence of the witnesses who have made the same, except where they shall have been made before a justice of some other district, as herein-after provided, or where from some good and sufficient cause their presence cannot be had; and whenever any witness whose depositions shall be so read shall be present at the reading thereof, the person charged shall be entitled to cross-

examine such witness; and the justice shall ask the person so charged what he has to say in answer to the charge against him, and shall at the same time caution him that he is not obliged to make any statement that may criminate himself, and that what he shall say may be used in evidence against him, and such justice shall make due record of such caution having been given. The statement of the person so charged shall then be taken down in writing, and the same, after being read over and explained to him, shall be subscribed by him, if he will subscribe the same, and by the justice, and by the interpreter duly sworn (if any shall have been employed) who interpreted the same; and the depositions of each witness shall in like manner be read over and explained to him, and be subscribed by such witness, by the justice, and by the interpreter who interpreted the same.

Commitment for refusing to answer.

184. If any person summoned or brought before a justice shall refuse to answer such questions as shall be put to him, without offering any just excuse for such refusal, the justice may, by warrant, commit to custody the person so refusing until he shall consent to be examined and to answer.

Witness in another district.

185. If any person acquainted with the facts and circumstances of the case shall reside or be in any other district than that for which the justice is assigned to act, every justice having authority within such other district is hereby authorized and required, upon application in writing signed by any justice authorized to inquire into the offence, and accompanied by such other information relative to the said crime or offence as can be conveniently transmitted, to summon before him such person, and take down in writing his examination on oath, which shall be signed by the witness, by the justice, and by the interpreter duly sworn interpreting the same, and shall be transmitted to the justice authorized to make such inquiry as aforesaid.

Power to remand accused for further examination.

Warrant of remand.

186. Whenever from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses, on any criminal charge for any time, the justice by whom the preparatory examination is taken may from time to time, by warrant under his hand, in the form F. in the schedule hereto, or to the like effect, remand the person accused to safe custody for such time, not exceeding twenty-one days, as such justice shall deem reasonable, and such warrant shall express the cause of such remand, and specify the time when the prisoner is again to be brought before the justice for examination.

Accused may be brought before expiration of time for which he was remanded.

187. The justice may order the accused person to be brought before him at any time before the expiration of the time for which such accused person shall have been so remanded, and the officer in whose custody he shall then be shall duly obey such order.

Bail in case of remand.

188. Instead of detaining the accused person in custody during the period for which he shall be so remanded, the justice may discharge him upon his entering into a recognizance in the form G. in the schedule hereto, or to the like effect, with or without a surety or sureties, at the discretion of such justice, conditioned for

his appearance at the time and place appointed for the continuance of such examination; and if such accused person shall not afterwards appear at the time and place mentioned in such recognizance, then the said justice, or any other justice who may then and there be present, upon certifying in the form H. in the schedule hereto, or to the like effect, on the back of the recognizance the non-appearance of such accused person, may transmit such recognizance to the Queen's Advocate, in order that such proceedings may be taken thereon as the law directs; and such certificate shall be deemed sufficient *primâ facie* evidence of such non-appearance of the said accused person.

If party does not appear upon recognizance, justice may transmit the same to the Queen's Advocate for recovery.

189. Whenever the justice, upon the investigation of any alleged crime or offence, shall be of opinion that the accused ought to be put on his trial, but that there are peculiar difficulties or circumstances connected with the case, or whenever the justice shall be so directed by the Queen's Advocate, he shall remand the accused in manner directed by the 186th section of this Ordinance, or admit him to bail as directed by the 188th section, and shall forthwith transmit the examinations to the Queen's Advocate, in order that the Queen's Advocate may give such instructions as to him shall appear requisite.

Justice when he sees peculiar difficulties in cases cognizable by district court to refer to Queen's Advocate.

190. When all the evidence against the accused shall have been heard, if the justice by whom the preparatory examination is conducted shall be of opinion that it is not sufficient to put the accused upon his trial for any crime or offence, such justice shall forthwith order the accused to be discharged as to the information then under inquiry unless the case is one of doubt or difficulty, or unless the Queen's Advocate shall direct otherwise, in either of which cases the justice is required to transmit the examinations to the Queen's Advocate for his instructions as to the commitment or liberation of the accused. But if in the opinion of such justice the evidence adduced against the accused is sufficient to put him upon his trial for any crime or offence, or when, after considering the preparatory examinations submitted to him, the Queen's Advocate shall have applied to such justice to commit the accused for trial, then such justice shall, by his warrant in the form I. in the schedule hereto, or to the like effect, commit him to the gaol of the district, to be there safely kept until he shall be thence delivered by due course of law.

If evidence insufficient, accused to be discharged.

If evidence considered sufficient, or the Queen's Advocate has so directed, the justice shall by warrant commit the accused for trial.

191. Whenever a person shall appear or shall be brought before a justice charged with a crime or offence alleged to have been committed by him in any district or place in this Colony wherein such justice shall not have jurisdiction, it shall be lawful for such justice and he is hereby required to examine such witnesses and receive such evidence in proof of the charge as shall be produced before him within his jurisdiction; and if in his opinion such testimony and evidence shall be sufficient proof of the charge made against such accused person, or if, after considering the preparatory examination submitted to him, the Queen's Advocate shall have applied to such justice to commit the accused for trial, such justice shall thereupon commit him to the gaol of the district in which the

If person apprehended in one district for offence committed in another, may be examined in the former.

offence is alleged to have been committed, or to the gaol of the district in which such justice has jurisdiction, if the Queen's Advocate shall have so applied, or shall admit him to bail as hereinafter mentioned; but if such testimony and evidence shall not, in the opinion of such justice, be sufficient to put the accused person on his trial for the offence with which he is so charged, and the Queen's Advocate shall not have applied to such justice to commit the accused for trial as aforesaid, or to liberate him, then such justice shall by warrant under his hand, in the form J. in the schedule hereto, or to the like effect, order such accused person to be taken before some justice for the district in which the offence is alleged to have been committed, and shall at the same time transmit the complaint, depositions, and recognizances taken by him to the justice before whom the accused is to be taken in obedience to the said warrant, and which said depositions and recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before such last-mentioned justice.

If insufficient, to be brought before some justice in the latter district.

192. If, after taking the depositions of the witnesses in support of such charge, and statement of the party charged, if he shall choose to make any, it shall appear to the justice that such charge has been sufficiently established to warrant the commitment of such party for trial, he shall call on such party to give in the name of every person whom he proposes to call at his trial for the defence, distinguishing between those whom he proposes to call to speak to facts and those who are merely to speak to character: Provided that such party shall, if he require it, be allowed till the following day to give in such names, and shall be remanded for that purpose; and the said justice shall thereupon with all possible dispatch, if the party charged shall assent thereunto, issue summonses to, and in the presence of the said party put such questions to such persons as he shall propose to call to speak to facts as may be necessary to enable the said justice to judge whether the evidence of such person is or is not material to the defence of the party charged, and the said justice shall certify accordingly at the end of the depositions of such persons.

Certificate of materiality of witnesses for the defence.

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193. In every case where a person is committed for trial by any justice, he shall be entitled to demand a true copy of the warrant of commitment under the hand of such justice, or of the Fiscal to whom the same is addressed, or of the keeper of the prison in which he is imprisoned; and every such justice, Fiscal, or gaoler shall be liable to a penalty not exceeding ten pounds sterling if he refuse to give such copy within twenty-four hours after the same shall have been demanded by the prisoner or his agent.

Prisoner entitled to demand a copy of his commitment.

194. No person shall be discharged for any defect of form in any warrant of commitment, if it can be sufficiently understood from the language thereof, in its ordinary signification, that the officer detaining him is a person to whose custody offenders may be legally committed, that the prisoner is legally charged with some

No person to be discharged for defect of form in warrant.

crime or offence, and that the warrant is signed by a person authorized to sign commitments.

Witnesses when required must enter into recognizance to give evidence.

195. Every justice before whom any preparatory examination is taken may lawfully require any witness, either alone or together with one or two sufficient sureties, to the satisfaction of the said justice, to enter into a recognizance, under condition that the said witness shall, at any time within eight months from the date thereof, appear and give evidence at the trial of the said case upon summons for that purpose being served at some certain place to be elected by such witness; and if any witness being so required to enter into any such recognizance shall refuse or fail so to do, it shall and may be lawful for the said justice to commit and detain in prison the witness so refusing or failing until such recognizance shall have been entered into as aforesaid, or until order shall be given for his discharge.

On the application of the Queen's Advocate the justice shall grant warrant to remove a prisoner to another district gaol.

196. The justice for any district, on an application to that effect by the Queen's Advocate, shall grant warrant for the removal of any person detained by virtue of any legal warrant within any prison in such district on any criminal charge, to a prison of any other district mentioned in such application, therein to be detained for further examination, or for trial, or until liberated or removed therefrom in due course of law; and any justice of the district, to a prison in which any person shall have been so removed and committed for further examination, shall have full power and authority to proceed with the examination and the disposal of such person in the same manner as if such person had been committed by such justice himself for further examination.

The justice to inspect the place where the offence was committed;

and cause wounds to be examined by medical practitioner.

197. The justice taking preliminary informations in respect of any serious offence shall in all cases where he conveniently can, and where the same would be useful, make personal inspection of the place where such offence was committed, and make or cause to be made a plan thereof; and in case of serious injury to the person of any individual he shall cause the person injured to be examined by a competent medical practitioner, if any such can be procured, and if not, then by the best qualified person that can be obtained, who shall draw up and subscribe a written statement of the appearances and facts observed on such examination; and every medical practitioner who shall reside within five miles of the place where any such preliminary inquiry shall be made shall be bound to obey in like manner as any other witness any summons which shall be served upon him for his attendance at such inquiry to examine any person injured as aforesaid: Provided always, that every medical practitioner attending and making such examination in consequence of any such summons shall be entitled to receive from the Fiscal of the province, upon presentation to such Fiscal of a certificate of such attendance and examination, signed by the justice before whom such attendance and examination were given and made, and in case such practitioner shall be one employed in the fixed establishments of the Colony, a further certificate from the principal civil medical officer that the case referred to was one of serious injury, and such as called for exami-

Proviso.

nation by a medical practitioner, the sum of one guinea; and the said justice shall cause all writings and other articles exhibited by the witnesses in the course of such examination, and likely to be used in evidence on the prisoner's trial, to be inventorized and labelled, or otherwise marked in the presence of the person producing the same, so as to be identified at the prisoner's trial, and shall cause the same to be kept in safe custody until the trial, and to be then produced.

And make inventory of articles produced.

198. Whenever any justice shall have committed any person for trial before any district court, he shall transmit a copy of all examinations taken by him in respect of such person to the secretary of such district court, except where he shall have already transmitted such examinations to the Queen's Advocate as hereinbefore directed; and where he shall have committed any person for trial before the Supreme Court, or where after any examination shall have been completed he shall be in doubt as to whether any person charged before him should be so committed or not, he shall transmit a copy of all examinations taken by him in respect of every such person to the Queen's Advocate; and every justice taking such examinations and not transmitting the same as aforesaid within ten days thereafter shall be liable to a fine not exceeding twenty pounds sterling; and if upon the receipt of any examinations so transmitted to him as aforesaid the Queen's Advocate shall make application to the justice transmitting the same, or to any other justice having authority in that behalf to institute any further examinations, or to supply any further information in respect of such case, or to liberate such person altogether, or in cases where the party charged has not been already committed for trial, so to commit him, the said justice is hereby required to institute such further examination, or supply such further information to the Queen's Advocate, or to liberate the person charged, or to commit him for trial.

Justice to transmit examinations to the secretary of the district court or to the Queen's advocate, as the case may be;

and to institute further examinations upon application of the Queen's Advocate.

199. The place in which a justice makes any inquiry, or conducts any preliminary investigation into any case triable by a criminal court, shall be deemed an open and public court to which the public generally may have access, so far as the same can conveniently contain them, but it shall be lawful for any justice, if he shall think fit, to order that during the investigation into any particular case no person shall have access to or be or remain in such room or building without the consent or permission of the justice.

Place where investigation is held an open court.

200. No person under commitment for examination shall be allowed the access of his friends or legal advisers unless by the authority of a justice, and under such restrictions as may to him appear requisite; but after commitment for trial the prisoner's friends and legal advisers shall have free access to him, subject to the regulations of the prison to which such a prisoner shall have been committed.

When prisoner's friends and advisers may visit him.

201. A prisoner is not of right entitled to the assistance of any legal adviser while he is under examination.

Prisoner not entitled to legal advisers when under examination.

Queen's Advocate may any time before trial, elect to prosecute before the Supreme Court a party committed for trial before the district court.

202. If at any time before the final commitment by any justice of any person charged with any offence, or if at any time after the commitment by any justice of any person for trial before any court, and before the trial, such justice shall receive intimation from the Queen's Advocate that he elects to prosecute such person before another court, such justice shall thereupon be authorized and required to make out a warrant for the commitment of such person for trial before such other court, and in case of such person being already committed for trial shall give immediate notice to the judge of such court of such election of the Queen's Advocate.

Returns to Queen's Advocate.

203. Every justice shall at the end of each month make to the Queen's Advocate returns, in such form as that officer shall from time to time prescribe, of all informations and complaints made to them, and of proceedings taken thereon, and of all recognizances or other securities for keeping the peace or for good behaviour taken by them during the month, and, when required to do so, shall forward the proceedings taken in any case, and furnish any information which the Queen's Advocate may call for.

(7.) *Bail.*

When justices may take bail.

204. Where any person shall appear or be brought before a justice of the peace charged with murder or treason, he shall not be admitted to bail unless with the consent of the Queen's Advocate. If such person shall be charged with any other crime or offence such justice may, in his discretion, admit such person to bail.

Supreme Court, or a judge thereof, may take bail in all cases.

205. It shall be lawful for the Supreme Court or any judge thereof, in the discretion of such court or judge, to accept bail, or to direct bail to be accepted, at any time, in any case whatsoever.

After commitment for trial for any bailable offence justice may admit to bail.

206. In any case where a person charged with any crime or offence bailable by a justice shall be committed to prison to take his trial for the same, it shall be lawful for the justice by whom he has been so committed, (or in case of his death, absence from the district, or other incapacity, for any other justice for such district, or any justice for the district in the prison in which the accused may be then imprisoned,) to admit such accused person to bail, upon his procuring and producing such surety or sureties as in the opinion of such justice will be sufficient to ensure the appearance of such accused person at the time and place when and where he is to be tried for such offence; and thereupon such justice shall take the recognizance in the form K. in the schedule hereto, or to the like effect, of the said accused person and his sureties, conditioned for the appearance of such accused person at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave, and that he will accept notice of the said recognizance, and of the time and place of the trial at some certain place by him elected, and therein expressed: Provided that no person shall be required to give excessive bail.

207. In determining the sufficiency of bail, the justice may require from the parties offering themselves as sureties proof by the affidavit of such sureties that they possess property within this Colony to the amount for which they are to become bound, exclusive of property subject to mortgage or other incumbrance, or over and above the sum for which their property is mortgaged, or otherwise incumbered ; and such justice may also receive other testimony, either for or against the sufficiency of the bail, and may from time to time adjourn the taking of bail, to afford an opportunity of proving or disproving such sufficiency.

Sufficiency of bail how determined.

208. If at any time it shall be made to appear to the satisfaction of the justice by whom bail has been taken, (or in case of his death, absence from the district, or other incapacity, to the satisfaction of any other justice for such district,) that the sureties did not possess, or have ceased to possess, the qualification in the preceding section mentioned, he may require the accused to give fresh bail, and in default thereof shall commit him to gaol.

If bail insufficient fresh bail may be taken.

209. At any time before the day mentioned in the recognizance for the defendant's surrender the bail may surrender the accused in their exoneration, or he may surrender himself, to the Fiscal or Deputy Fiscal of the province or district in which the offence was committed, and the said Fiscal or Deputy Fiscal shall receive the defendant into his custody, and take him as soon as may be before the justice before whom the recognizance was taken, or any other justice for the district, who shall thereupon commit him to gaol, and shall make order that the bail be exonerated, which order he shall endorse on the recognizance.

Accused may be surrendered by his bail, or may surrender himself.

210. For the purpose of surrendering the accused the bail may themselves arrest him, or he may be arrested on their application by any headman or police officer. But the neglect or failure of such headman or police officer to arrest the defendant when requested to do so by the bail shall not exonerate them from their liability.

Bail may arrest accused with a view to surrender.

211. At any time after an order has been made admitting any accused person to bail such person instead of giving bail may deposit with the Fiscal in whose custody he is, the sum mentioned in the order, and thereupon the Fiscal shall give to the accused a receipt for the amount, setting forth the object for which such deposit is made, and shall discharge him from custody, and shall inform the court or justice by whom the order was made of such deposit and discharge, and all monies so deposited shall be forthwith lodged by such Fiscal in the office of the Government Agent, or Assistant Government Agent, for safe custody, and shall be specially bound for and in respect of the object for which they are deposited.

Deposit instead of bail when and how made.

212. If bail has been given the accused may at any time before a forfeiture is incurred in like manner deposit the sum mentioned in the recognizance, and upon such deposit being made the bail is exonerated.

May be made after bail given, and before forfeiture.

213. If money be deposited, as provided in the last section, bail may be given in the same manner as if it had been originally

Bail may be given after deposit, in

which case money deposited to be refunded.

given upon the order for admission to bail, at any time before a forfeiture of the deposit has been incurred. The court or justice before whom the bail is taken shall thereupon direct, in the order of allowance, that the money deposited be refunded by the Fiscal to the accused, and it shall be refunded accordingly.

On surrender before forfeiture money deposited to be refunded.

214. If money have been deposited instead of bail, and the accused at any time before the forfeiture thereof surrendered himself to the Fiscal or his deputy, such officer shall bring him before the justice conducting the examination, or in case of his death, incapacity, or absence, any other justice in the district or by whom the warrant of commitment has been issued, who shall thereupon commit the accused to prison, and make order for the return of the deposit to him, which shall be refunded accordingly.

Deposit when forfeited how disposed of.

215. If by reason of the neglect of the accused to appear at the time and place of trial mentioned in any notice to appear which may be served upon him in manner herein provided, and to surrender himself into custody and take his trial for the crime or offence charged against him, the money deposited by him instead of bail be forfeited, and the forfeiture be not discharged or remitted, the Government Agent or Assistant Government Agent with whom it is deposited shall forthwith pay the amount into the public treasury to the use of Her Majesty.

Deposit to be applied to payment of fine and surplus refunded.

216. When money has been deposited instead of bail, if the accused shall be adjudged to pay any penalty, and the money is still in deposit, the same shall be applied in satisfaction of such penalty, and the surplus, if any, shall be refunded to the defendant.

If accused fails to appear after giving bail he may be arrested and recommitted.

217. If by reason of his failure to appear the accused has incurred a forfeiture of his bail, or of the money deposited instead thereof, the court or justice before whom he ought to have appeared shall make order directing his arrest and commitment to the custody of the Fiscal, to be detained in gaol until legally discharged.

When justice admits a person to bail after commitment, a warrant of deliverance to be sent to the Fiscal.

218. In all cases where a justice shall admit to bail for his appearance to take his trial any person who shall then be in any prison charged with the offence for which he shall be so admitted to bail, such justice shall send to or cause to be lodged with the Fiscal or his deputy in whose custody such prisoner may be a warrant of deliverance under his hand, in the form L. in the schedule hereto, or to the like effect, requiring such Fiscal or Deputy Fiscal to discharge the person so admitted to bail, if he be detained for no other cause, and upon such warrant of deliverance being delivered to or lodged with such Fiscal or Deputy Fiscal, he shall forthwith obey the same.

Justice taking recognizance to send the same to the proper Fiscal.

219. Every justice shall forward every recognizance taken before him for the appearance of any accused person to take his trial for any offence to the Fiscal of the province, by whom the same shall be produced to the court before which the accused is to be tried at the time appointed for such trial; and the said Fiscal or his deputy shall serve on the said accused person as herein-before provided a notice of the said recognizance, in the form M. in the

Fiscal to give notice to the

schedule hereto, or to the like effect, in conformity with the condition thereof.

accused of the recognizance.

220. In every case in which any person considers himself aggrieved by the proceedings of any justice in having committed him to prison or refused to admit him to bail, or in having required excessive bail, it shall be competent to such person to apply to the Supreme Court, which shall make such order thereon as the circumstances of the case shall seem to require. Such applications shall be subject to the rules and regulations relating to appeals from police courts: Provided, however, that it shall be competent to the Supreme Court to allow an appeal after the prescribed time.

Any person aggrieved by justice may apply to Supreme Court for redress.

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(8.) *Security to keep the Peace.*

221. Whenever it shall appear to the satisfaction of a justice of the peace, by the oath of one or more credible persons, and supported, if the justice shall so require, by the testimony of witnesses, that any person within the jurisdiction for which such justice is assigned to act has used threats towards, or otherwise evinced an intention to commit a crime or offence against the person or property of another, and that such offence is one of a serious nature calling for such interference, or that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, the justice shall issue a warrant, directed as in the case of other criminal warrants, reciting the substance of the complaint, and commanding the officer to whom the same is directed forthwith to arrest the party complained of and bring him before such justice: Provided, however, that it shall be lawful for such justice, in his discretion, to summon the person complained of to appear before him, instead of issuing a warrant as aforesaid, in any case in which it shall not appear to him necessary for the preservation of the peace to issue such warrant.

Justice to issue warrant in cases where a breach of the peace is likely to be committed.

Summons.

222. When the person complained of is brought or appears before the justice, if the charge is controverted such justice shall hear any statement or evidence in relation thereto which may then be adduced by the accused.

Proceedings when complaint is controverted.

223. If it appears that there is no just reason to fear the commission of any such offence as aforesaid the person complained of shall be discharged. But if there is just reason to fear the commission of the offence, the person complained of may be required to enter into a recognizance to Her Majesty, in such sum as the justice may direct, with one or more sufficient sureties, to keep the peace towards the Queen and all Her Majesty's subjects, and particularly towards the complainant, for such time not exceeding twelve months as the justice may direct; and such recognizance may be in the form N. in the schedule hereto, or to the like effect.

Person complained of when to be discharged.

Security to keep the peace when required.

224. If the recognizance required by the preceding section be entered into the party complained of shall be discharged; but if it be not entered into, the magistrate or justice shall commit him

Effect of giving or refusing to give security.

to prison, specifying in the warrant the requirement to give security, the amount thereof, the omission to give the same, and the time, not exceeding twelve months, during which such person is to be imprisoned for default of giving security; and such warrant may be in the form O. in the schedule hereto, or to the like effect.

Persons committed for not giving security to be discharged on giving the same.

225. If the person complained of be committed for not giving security, he may be discharged by any court of criminal jurisdiction, or any justice of the peace for the district in which he is in custody, upon giving the same.

Security when required for assault, &c. in presence of a court or justice of the peace

226. A person who in the presence of any court or justice of the peace assaults or threatens to assault another, or to commit a crime or offence against the person or property of another, or who contends with another with angry words, or otherwise evinces an intention of committing an offence against the person or property of another, may be ordered by such court or justice to give security, as provided in the 223rd section, and if he fail to do so may be committed as provided in the 224th section.

Discharge of recognizances.

227. The justice may, if he shall see sufficient cause, discharge any recognizance and surety for keeping the peace, and may order the release of the person confined for default in entering into such recognizance, or giving such security.

Discharge of surety.

228. A surety may at any time apply to the justice to be relieved from his engagement as surety to any person. On such application being made the justice shall issue his warrant in order that such person may be brought before him. On such person being brought before him the justice shall direct the engagement of the surety to be cancelled, and shall commit such person to prison, unless and until he shall give fresh security.

When party aggrieved application for redress may be made to Supreme Court.

229. In every case in which any person considers himself aggrieved by the proceedings of any court, magistrate, or justice, in having required or refused security to keep the peace or for good behaviour, as herein-after provided, it shall be competent to him to apply to the Supreme Court, which shall make such order thereon as the circumstances of the case shall seem to require. Such applications shall be subject to the rules and regulations relating to appeals from police courts: Provided, however, that it shall be competent to the Supreme Court to allow an appeal after the prescribed time; and provided further that no such application shall have the effect of staying the execution of the order to find security.

Proviso.

Recognizance when broken.

230. A recognizance to keep the peace is broken on the person complained of being guilty of a breach of the peace.

Proceedings when recognizance has been forfeited.

231. When a recognizance to keep the peace has been broken it shall be transmitted to the Queen's Advocate, or Deputy Queen's Advocate empowered to act within the district, who may thereupon take such steps as may be necessary for recovering payment of the amount of such recognizance; and in any proceeding for that purpose the record of the conviction of such offence shall be conclusive evidence of the breach of such recognizance.

(9.) *Security for Good Behaviour.*

232. Whenever it shall appear to any justice of the peace that any person is lurking within his jurisdiction, not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, it shall be competent to such justice to require security for the good behaviour of such person for a period not exceeding three months.

When justice may require security for three months;

233. Whenever it shall appear to such justice, from the evidence as to general character adduced before him, that any person is by repute a robber, housebreaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of notoriously bad livelihood, or of a character so desperate and dangerous as to render his release without security hazardous to the community, it shall be competent to such justice to require security for the good behaviour of such person for a period not exceeding six months.

when for six months.

234. In every instance in which security for good behaviour shall be required, the amount of the security, the number of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order. The security bond shall be in the form P. in the schedule hereto, or to the like effect.

What the order for security is to contain.

235. In the event of any person required to give security failing to furnish the security so required, he shall be committed to prison until he furnish the same: Provided that no person shall be kept in prison for a longer period than that for which the security has been required from him.

In default of security party to be committed to prison.

236. The justice is empowered at any time to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, provided he shall be of opinion that such person can be released without hazard to the community.

When justice may release person under requisition of security.

237. The remedies and proceedings prescribed by sections 222, 225, 227, 228, 229, and 231 shall be available to sureties and persons aggrieved, and be observed by justices as if the same had been inserted herein.

The 222nd, 225th, 227th, 228th, 229th, and 231st clauses apply to this section.

(10.) *Actions against Justices of the Peace.*

238. No action shall be commenced against any justice of the peace for anything by him done in the execution of his office until notice in writing of such intended action shall have been delivered to him, or left at the usual place of his abode, signed by the party who intends to commence such action, or by his proctor, where a proctor may be employed, at least one month before the commencement of such action, and every such notice shall clearly and explicity specify the cause of action which such party has or claims to have against such justice, and on the back thereof shall be endorsed the name and place of abode of such party and of his proctor; and no evidence shall be permitted to be given by the plaintiff on the trial of any such action as aforesaid of any cause of

Actions against justices of the peace.

action except such as is contained in the notice hereby directed to be given.

Judgment thereon.

239. No person shall recover any judgment against any justice of the peace in any case where the action shall be grounded upon any act of the defendant as such justice, unless it is proved at the trial of such action that such notice was given as aforesaid, but in default thereof such justice shall be entitled to judgment and his costs.

Amends tendered by justice of the peace.

240. It shall and may be lawful for such justice within one month after such notice given as aforesaid to tender amends to the party complaining, or to his proctor, and in case the same is not accepted, to plead such tender to any such action brought against him, together with the plea of not guilty, and any other plea with the leave of the court; and if the court before which such action is brought shall find the amends so tendered to have been sufficient, then such court shall give judgment for the defendant, and in such case, or in case the plaintiff shall not proceed in his action, or in case judgment shall be given for the defendant, such justice of the peace shall be entitled to like costs as he would have been entitled to in case he had pleaded not guilty only; and if the court shall find that no amends were tendered, or that the same were not sufficient, and also against the defendant on such other plea or pleas, then the said court shall give judgment for the plaintiff, and such damages as the said court shall think proper, either with or without costs, as the justice of the case may require.

Action against justices prescribed in six months.

241. No action shall be brought against any justice for anything done in the execution of his office, unless commenced within six months after the act committed.

VIII.—INQUESTS, IN CASES OF SUDDEN AND VIOLENT DEATHS.

The appointment of coroners.

242. It shall be lawful for the Governor from time to time, by notice in the "Government Gazette," to appoint such persons as shall be named therein to act as coroners and deputy coroners, within such districts of the Island as to the said Governor shall seem expedient; and every such coroner and deputy coroner so appointed shall take and subscribe the oath of allegiance and the oath of office, which said oaths shall be as near as is material in the form set forth in the schedule hereto annexed (marked B.), before some district judge, commissioner of requests, or police magistrate, and every such judge, commissioner, or magistrate is hereby empowered and required, on application for that purpose, to administer the same, and to enter in the records of his court that such oaths were duly administered and taken before him, and forthwith to transmit a copy of every such entry to the registrar of the Supreme Court, to be entered in the record of that court; and the Governor may at any time remove any person from his said office of coroner or deputy coroner.

Information of death how to be given.

243. In all cases where any person shall come to his or her death by violence, accident, or where the death shall have occurred suddenly, or where the body of any person shall be found dead

without its being known how such person came by his death, every person to whom the same shall be known shall forthwith make the circumstance known to the nearest officer of police, or headman of the village or district in which the death shall have occurred or the body shall have been discovered.

Constables to make inquiries and report to coroner.

244. The officer of police or headman to whom any such information shall have been given shall forthwith forward information thereof to the nearest police station, if there be any within the district, and shall repair to the spot and use his best endeavours to discover the cause of the death of the deceased, and to trace and apprehend all such persons as may be reasonably charged with or suspected of having caused the said death, and shall within one hour from receiving such information dispatch notice thereof, with such further particulars as may have come to his knowledge, to the coroner of the district in which such body shall be lying.

Where coroner to hold inquest.

245. Upon such information having been given the coroner shall forthwith proceed to the spot, and if the body shall have been interred, or otherwise disposed of, he is hereby authorized to cause the same, if necessary, to be produced, and shall also forthwith by warrant cause to be summoned before him a jury, of not more than thirteen nor less than five men, who shall be of the district in which such body shall be lying, and shall be not less than twenty-one nor more than sixty years of age.

Jury to be summoned;

246. It shall be lawful for any coroner to issue his warrant for the apprehension and production before him of every person summoned to attend as a juror before him under the authority of such warrant as aforesaid, and failing without good and sufficient excuse, to attend at the time and place mentioned in his summons; and every person who shall so fail to attend, or who attending shall refuse to take the oath, or perform the duties of a juror, shall be guilty of an offence, and shall be liable on conviction thereof to a fine of one pound.

and suspected persons apprehended.

247. If any party shall have been apprehended upon suspicion of having been concerned in the death of the deceased, as principal or accessory, the coroner about to hold such inquest shall be authorized and is hereby required to issue his warrant to the person in whose custody such party shall be to produce the party before him at such inquest, and he shall not commence the proceedings of such inquest until the arrival of such party, unless the delay occasioned thereby shall appear to such coroner calculated to defeat the ends of justice; and such party shall be at liberty to cross-examine any witness that may appear to give evidence against him at such inquest.

Proceedings before coroner.

248. So soon as a sufficient jury shall be assembled and the party accused shall have arrived, or if such party shall not arrive within convenient time, then without waiting for such party the coroner shall administer to the foreman, and other members thereof respectively, oaths as near as is material of the form in the schedule Q. hereto, and the said coroner shall thereupon inquire upon the view of the body into the cause of the death of the person deceased, and shall for the purpose of such inquiry be and he

hereby is authorized and required to summon before him all such persons as he shall have reason to believe are able to give information in such matter, and examine all witnesses on oath and separately, and reduce their evidence to writing, or as much thereof as shall be material; and he shall take down in writing any statement which any party charged or suspected shall voluntarily make, after being duly cautioned that such statement may be used in evidence against him; and when the requisite witnesses shall have been heard, and the person charged or suspected have made his statement, if he choose to make any, the coroner shall state his opinion to the jury of the effect of such evidence and statements, and shall take and record the finding of the said jury, or of the major part of them, and the inquisition shall be signed by himself and each of the jurors, and a copy, or if the inquest was held in the native language, a translation thereof, shall be transmitted to the Queen's Advocate.

Proceedings before deputy coroner to be sent to the coroner.

249. Wherever any inquest is holden by a deputy coroner the inquisition shall in the first instance be transmitted to the coroner to whom he is deputy.

Inspection to be made by coroner of place of death.

250. The coroner shall in all cases make local inspections, and take or cause to be taken a plan of the place where the deceased was killed or found dead, and shall annex such plan to the inquisition.

Articles produced at inquest.

251. The coroner shall cause all writings and other articles produced at any inquest, and likely to be used in evidence at the trial of any person for the murder or manslaughter of the deceased, to be marked in the presence of the party producing the same, so that they may be capable of being identified at the trial of such person, and shall cause the same to be kept in safe custody until the trial, and to be then produced, unless they shall be sooner called for by the Queen's Advocate, or some justice of the peace of the district in which the deceased died, or in which the act was committed by means of which his death was caused.

Coroner may require witnesses to enter into recognizances.

252. Every coroner may require any witness either to enter into a recognizance, with or without sureties, under condition that the said witness shall, at any time within eight months from the date thereof, appear and give evidence at the trial of the person or persons charged with being concerned in the death of the deceased, upon being summoned thereto by summons to be left at some certain place to be elected by such witness; and if any witness being so required to enter into any such recognizance shall refuse or fail so to do, such witness shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Power to adjourn inquests.

253. If the place where a body shall be found lying shall be inconvenient for the purpose of holding the inquest as aforesaid, or if any material witnesses be absent or affected by undue influence or unwilling to attend, or there be any other good cause why the inquest cannot be properly completed, it shall be lawful for the said coroner to adjourn it to another time or place, inform-

ing the jury when and where they are again to meet, and first taking, as he is hereby authorized and required to take, the recognizance of each juror for his appearance at such adjourned time and place; and every such juror failing without sufficient cause to attend at such adjourned inquest shall be guilty of an offence and be liable on conviction thereof to a fine of one pound.

Summoning of medical practitioners.

254. Whenever upon the summoning or holding of any inquest it shall appear to the coroner that the deceased person was attended at his death, or at any time after receiving the injury of which he died by any person professing to be a medical practitioner, whether native or otherwise, it shall be lawful for such coroner to issue his summons for the attendance of such practitioner as a witness at such inquest, and if it shall appear to the coroner that the deceased person was not attended at or immediately before his death by any medical practitioner, or if the evidence of such practitioner cannot for any reason be obtained, or if it shall appear that such practitioner was not a person of sufficient experience, it shall be lawful for the said coroner to issue his summons for the attendance of any medical practitioner being at the time in actual practice within five miles of the place where the said inquest shall be holden, and it shall further be lawful for the said coroner, either in his order for the attendance of such medical practitioner, or at any time between the issuing of such order and the termination of the inquest, to direct the performance of a post-mortem examination, with or without an analysis of the contents of the stomach or intestines, by such medical practitioner: Provided that if the coroner shall see reason to believe that the death of the deceased was caused partly or entirely by the improper or negligent treatment of any person professing to be a medical practitioner, or any other person, no such person shall be allowed to perform or assist at the post-mortem examination of the deceased.

Penalty on medical practitioner not obeying summons.

255. Every medical practitioner being so summoned as aforesaid, and not attending at the time and place mentioned in his summons, or attending and refusing to give evidence, or to perform any service which may be legally demanded of him, without good and sufficient excuse, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding ten pounds.

Medical practitioner entitled to pay

256. Whenever any medical practitioner has attended and given evidence at any inquest in obedience to any such order as aforesaid, he shall be entitled to receive payment from the Fiscal of the province, upon the presentation to such Fiscal of a certificate of such attendance, signed by the coroner before whom the same was given, according to the following rates; that is to say,

1*l.* 1*s.* for attendance and examination at an inquest whereat no post-mortem examination was made by the practitioner: Provided that he be not the same practitioner who attended the deceased at his death, or at any time after his receiving the injury of which he died.

2*l.* 2*s.* for the making of a post-mortem examination and giving evidence thereon.

3*l.* 3*s.* for the making of a post-mortem examination, with an analysis of the contents of the stomach or intestines, and giving evidence, and sending to the coroner a report thereon if required.

Provided that if any medical practitioner not being in the employ of Government shall at the request of any coroner attend and make such post-mortem examination at any distance beyond five miles from his place of residence, he shall be entitled to receive, in addition to the charges herein-before authorized. travelling expenses at the rate of two shillings for every additional mile to the place where the inquest is holden: Provided further that no medical practitioner shall be entitled to the aforesaid payments except such as shall have received a collegiate education or shall hold a certificate of competency, for the purposes of this provision, from the principal civil medical officer.

Service of summons.

257. Every Fiscal's officer and every officer of police is hereby authorized and required to serve personally upon the party named therein, or at his dwelling-house upon some member of his household, every process which he shall be called upon to serve by any coroner.

Penalty on witness disobeying summons.

258. It shall be lawful for any coroner to issue his warrant for the apprehension and production before him of every person summoned to attend as a witness before him and failing to attend at the time and place mentioned in his subpœna; and every person who shall so fail to attend, or attending shall refuse to take the oath of a witness, or shall refuse to answer any question which shall legally be asked of him, shall be guilty of an offence, and shall be liable on conviction thereof before any competent court to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Coroner may hold a fresh inquest where not satisfied with the inquest holden by his deputy.

259. If it shall appear to any coroner that sufficient inquiry was not made at any inquest holden by any deputy coroner, it shall be lawful for such coroner to hold a fresh inquest himself, or to direct the same or any other deputy coroner to hold a fresh inquest; and for the purpose of such fresh inquest it shall be lawful for such coroner or deputy coroner holding the same to cause the disinterment and production of the body of the deceased; and all such fresh inquests shall be proceeded with in the same manner as near as may be as is prescribed by this Ordinance in relation to the holding of inquests, and the attendance thereat of jurors and witnesses and medical practitioners shall be required and enforced in like manner.

Coroner to issue warrant for apprehension of every party charged by the verdict of the jury.

260. Wherever a jury shall at any inquest as aforesaid charge by their verdict any person with the murder or manslaughter, or with being an accessory to the murder of the deceased, it shall be lawful for the said coroner and he is hereby required to issue his warrant for the apprehension of every such person and his production before the said coroner, by whom he shall be committed to prison until he shall be discharged according to law; and every such warrant shall be executed by officers of police or persons to whom they shall be addressed, either within or without the district

for which such coroner may be appointed to act; and every gaoler or keeper of a gaol shall receive into his custody and safely keep every such person so committed, until he shall be discharged by due course of law: Provided always, that it shall be competent for any justice of the peace for the district in which the act was committed by which the death of the deceased was occasioned, or for the district within which the deceased died, if he shall deem it necessary for the purpose of further inquiry into the crime or alleged crime in respect of which any person shall have been committed to gaol under warrant of any coroner, to issue his warrant to the keeper of the gaol to which such person shall have been committed to cause such person to be brought before him at such time and place as shall be named in such warrant; and every keeper of a gaol to whom such warrant shall be directed is hereby authorized and required to obey the same.

Justice of peace may make further inquiry.

261. No body found dead, and no body of any person dying under the circumstances set forth in the 243rd clause, shall be burnt or buried or be otherwise disposed of until after an inquest shall have been held thereon as herein provided, or until the coroner shall have given permission that such dead body may be burnt, buried, or otherwise disposed of; and every person burning, burying, or disposing of any dead body before such inquest shall have been held, or such permission shall have been given, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Bodies not to be removed before inquest

262. If any coroner shall refuse or neglect to perform any duty imposed upon him by this Ordinance, he shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months.

Coroner neglecting duty.

263. If any person shall obstruct, resist, molest, or hinder any coroner, or any other person, in the execution of any duty, or in the exercise of any authority imposed upon or vested in him by this Ordinance, every such person shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Penalty for obstructing or resisting coroner,

264. Every Fiscal and his deputy or officer, and every officer of police, who shall refuse or neglect to perform any duty imposed upon him by this Ordinance, and any person offending against the provisions of the 243rd clause hereof, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for a period not exceeding three months.

and for non-performance of duty by certain officers.

SCHEDULE.

B. (§ 58, 139, and 242.)

FORM OF OATH OF ALLEGIANCE.

I do sincerely promise and swear (*or* affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria.

So help me God.

FORM OF OATH OF OFFICE.

I do sincerely promise and swear (*or* affirm) that I will faithfully and diligently execute, to the utmost of my abilities, the several duties of the office of a (District Judge, Commissioner of Court of Requests, *or* Police Magistrate, *or* Justice of the Peace for Coroner, *or* Deputy Coroner, *as the case may be*). So help me God.

C. (§ 139.)

JUSTICES OF THE PEACE FOR THE ISLAND.

The Judges of the Supreme Court.
„ Members of the Executive Council.
„ Members of the Legislative Council.
„ Government Agents of the different provinces.
„ Deputy Queen's Advocate.
„ Inspector General of Police.
„ Clerk of the Executive and Legislative Councils.

JUSTICES OF THE PEACE FOR PORTIONS OF THE ISLAND.

„ District Judges,
„ Commissioners of the Courts of Requests,
„ Police Magistrates,
} for the different districts over which the courts of which they are respectively judges, commissioners, or magistrates have jurisdiction.

„ Assistant Agents for their respective Revenue Districts.
„ Deputies to the Queen's Advocate for their respective circuits, provinces, or districts.
„ Provincial inspectors of police for their respective provinces.

D. (§ 149.)

Justice of the Peace.

SUMMONS.

To

You are hereby directed to appear before me at at o'clock in the of the day of next, 18 to answer a charge of made by

Given under my hand at this day of 18

J.P.

E. (§ 149.)

Justice of the Peace.

WARRANT OF APPREHENSION.

To of

Take into your custody the body of of charged with and bring him before me or some other competent justice of the peace forthwith.

Given under my hand at this day of 18

J.P.

F. (§ 186.)

WARRANT REMANDING A PRISONER.

To the Fiscal of the province, or his lawful deputy.

Whereas *A.B.* stands charged before the undersigned, a justice of the peace for the district of , with (*here insert the crime or offence charged*), and it appears necessary to me by reason of (*here state the cause of the remand*) to remand the said *A.B.* These are therefore to command you, in Her Majesty's name, safely to keep the said *A.B.* in your custody in the gaol of until the day of instant, and then to have him at , at ten o'clock in the forenoon, before me, or before such other justice of the peace as may then be there, to answer further to the said charge, and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand at this day of 186

J.P.

G. (§ 188.)

RECOGNIZANCE OF BAIL INSTEAD OF A REMAND, ON AN ADJOURNMENT OF EXAMINATION.

District of . Be it remembered, that on the day of in the year of our Lord 186 , *A.B.* of , *L.M.* of , and *N.O.* of personally came before me, a justice of the peace for the said district, and severally acknowledged themselves to owe to our Lady the Queen the several sums following; that is to say, the said *A.B.* the sum of , and the said *L.M.* and *N.O.* the sum of each, of lawful money of this Colony, to be made and levied of their several goods, lands, and other property respectively, for the use of our said Lady the Queen, her heirs and successors, if he the said *A.B.* fail in the condition underwritten.

Taken and acknowledged, the day and year above mentioned, at before me,

J.P.

Condition.

The condition of the above-written recognizance is such that whereas the above-bounden *A.B.* was this day (*or* on last past) charged before me with (*here insert the crime or offence charged*): And whereas the examination of the witnesses in this behalf is adjourned until the day of instant (*as the case may be*): If therefore the said *A.B.* shall appear before me on the said day of instant, at o'clock in the forenoon at , or before such other justice of the peace as may then be there, to answer (*further*) to the said charge, and to be further dealt with according to law, then the said recognizance to be void, or else to stand in full force and virtue.

H. (§ 188.)

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE RECOGNIZANCE.

I hereby certify that the said *A.B.* hath not appeared at the time and place in the above condition mentioned, but therein hath made default, by reason whereof the foregoing recognizance is forfeited.

J.P.

I. (§ 190.)

WARRANT OF COMMITMENT FOR TRIAL.

To the Fiscal of the province or his lawful deputy

Whereas *A.B.* stands charged before the undersigned, justice of the peace for the district of , on the oath of *C.D.* of and others, with (*here state shortly the offence*): These are therefore in Her Majesty's name to command you to receive the said *A.B.* into your custody in the gaol of the said district, and there safely keep him until brought to trial for the said offence before the (*Supreme*) Court, or until thence delivered by due course of law.

Given under my hand this day of in the year of our Lord 186 , at

J.P.

J. (§ 191.)

WARRANT TO CONVEY ACCUSED BEFORE A JUSTICE OF THE DISTRICT IN WHICH THE OFFENCE WAS COMMITTED.

To police constable of and to all other peace officers in the said district.

Whereas *A.B.* of stands charged before the undersigned, a justice of the peace for the said district, with (*stating the offence*): And whereas I have taken the deposition of *C.D.*

(*and others*) in this behalf, but I am informed that the principal witnesses to prove the said offence against the said *A.B.* reside in the district of where the said offence is alleged to have been committed. These are therefore to command you in Her Majesty's name forthwith to convey the said *A.B.* to the said district and then carry him before some justice of the peace for that district, to answer further to the said charge before him, and to be further dealt with according to law, and I hereby further command you to deliver this warrant to the said justice.

Given under my hand this day of in the year of our Lord 186 , at in the district of

J.P.

K. (§ 206.)

RECOGNIZANCE OF BAIL.

(*The same form as B.*)

Condition.

The condition of the above-written recognizance is such, that whereas the said *A.B.* stands charged before me, the justice above mentioned, with (*stating the offence*): If therefore the said *A.B.* will appear at the next session of the Supreme Court to be holden for the district of (*or* will appear before the District Court of on such day within two months from the date thereof as he shall be required by notice to appear), and there surrender himself into the custody of the Fiscal or his lawful deputy, and plead to such information (*or* complaint) as may be presented (*or* preferred) against him in respect of the charge aforesaid, and take his trial upon the same, and not depart the said court without leave, and will accept notice of the said recognizance, and of the time and place of trial at in the district of (which place is hereby elected by him for that purpose), then the said recognizance to be void, or else to stand in full force and virtue.

L. (§ 218.)

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER ALREADY COMMITTED.

To the Fiscal of the province or his lawful deputy.

Whereas *A.B.* of has entered into a recognizance with sufficient sureties for his appearance at the next sessions of the Supreme Court to be holden for the district of (*or as the case may be*) to take his trial for (*as in the commitment*), for which he was committed to your custody in the gaol of

These are therefore to command you in Her Majesty's name, that if the said *A.B.* do remain in your custody in the said gaol for the said cause and for no other you shall forthwith suffer him to go at large.

Given under my hand this day of in the year of our Lord 186

J.P.

M. (§ 219.)

NOTICE OF RECOGNIZANCE AND OF THE TRIAL TO BE GIVEN TO THE ACCUSED.

To *A.B.* of in the district of

Take notice that you are bound in the sum of and your (*sureties and N.O.*) in the sum of each that you appear, *&c.* (*as in the condition of the recognizance*), and not depart the said court without leave; and you are hereby required personally to appear before the said court at on the day of next, and to plead and take your trial accordingly, and unless you shall do so the recognizance entered into by you and your sureties shall be forthwith levied on you and them.

Dated this day of 186

(*Signature of Fiscal or his Deputy.*)

N. (§ 223.)

RECOGNIZANCE TO KEEP THE PEACE.

District of }

Be it remembered that on the day of in the year of our Lord one thousand eight hundred and sixty- , came before me (*here insert the name of the person taking the recognizance, and his office*) *C.D.* of , *E.F.* of , and *G.H.* of , who acknowledged themselves to owe to our Lady the Queen, to wit, the said *C.D.* the sum of £ , the said *E.F.* the sum of £ , and the said *G.H.* the sum of £ , to be made and levied of their several goods, lands, and other property respectively to the use of our said Lady the Queen, her heirs and successors, if he the said *C.D.* shall fail in performing the condition under mentioned.

The condition of this recognizance is such, that if the said *C.D.* shall keep the peace towards the Queen and all Her Majesty's subjects, and particularly towards *A.B.* of , for the term of (*twelve months*) now next ensuing, then this recognizance shall be void, or else remain in force.

Taken and acknowledged before me the day and year aforesaid.

(*Signature of the Magistrate or Justice of the Peace.*)

O. (§ 224.)

COMMITMENT FOR WANT OF SURETIES.

To the Fiscal of the province and all others whom this may concern.

Whereas *A.B.* of hath made complaint on oath before me (*insert the name and office of the committing magistrate*) that *C.D.* of did on, *&c.*, at, *&c.*, threaten to (*here recite the complaint*): And whereas the said *C.D.* was this day brought and

appeared before me to answer the said complaint, and it has been made to appear to me that there is just reason to fear the commission of the offence threatened; and I have required and do hereby require the said *C.D.* to enter into a recognizance in the sum of £ , with two sufficient sureties in the sum of £ each, to keep the peace towards the Queen and all Her Majesty's subjects, and particularly towards the said *A.B.*, for the term of months now next ensuing. And insomuch as the said *C.D.* hath failed to enter into such recognizance, and to find such sureties as aforesaid, I do hereby require and command you to receive the said *C.D.* into your custody, and to keep him safely in the gaol at for the space of months, unless he will in the meantime enter into such recognizance with such sureties as aforesaid to keep the peace, in the manner and for the term above mentioned.

Given under my hand at the day of

(*Signature of the Magistrate or Justice.*)

P. (§ 234.)

FORM OF BOND FOR GOOD BEHAVIOUR.

Whereas I inhabitant of have been called to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein I bind myself to forfeit to Her Majesty the sum of

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the said that he shall be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of his making default therein I hereby bind myself to forfeit to Her Majesty the sum of

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Q. (§ 248.)

FORM OF OATH OF FOREMAN OF JURY.

I do sincerely promise and swear that I will diligently inquire and true presentment make on the behalf of our Sovereign Lady the Queen how and in what manner *A.B.* (*or* "a person unknown," *as the case may be*,) here lying dead came to his death, and of such other matters relating to the same as shall be lawfully required of me.

So help me God.

After the foreman has been sworn the rest may be sworn three or four together, as follows:

Such oath as *A.B.* the foreman of this inquest hath for his part taken you and every of you shall well and truly observe and keep on your parts respectively.

So help me God.

5th December 1868.

205.

No. 1 of 1869.

An Ordinance relating to the Supply of Gas for Municipal Towns in this Island.

Preamble.

Whereas the municipal councils established under the authority of "The Municipal Councils Ordinance, 1865," are authorized to make provision, with the sanction of the Governor and Executive Council, for the supply of any municipal town with gas: And whereas the municipal council of the town of Colombo are under treaty with the Colombo Gas and Water Company, Limited, (a joint stock company duly registered in England under "The Companies Act, 1862,") to supply the town of Colombo with gas, and have applied to the Government for an Ordinance to give the said company, or any other person or company with whom or with which the Council may be able to make satisfactory terms, the necessary powers and facilities to supply the towns with gas, and to construct the necessary works therefor: It is therefore hereby enacted:

Short title.

1. This Ordinance may be cited as "The Gas Ordinance, 1869."

2. Has had its effect.

Interpretation clause.

3. The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The word "street" shall include any square, court, alley, highway, lane, thoroughfare, or public passage or place:

The word "magistrate" shall include any police magistrate or bench of magistrates:

The word "company" shall include a person.

Company may be empowered to construct the necessary gas-works.

4. It shall be lawful for the Governor, with the advice of the Executive Council, if it shall appear to their satisfaction that a company is in a position to undertake, with advantage to the public, to supply any municipal town in this Island with gas, to empower, by proclamation to be for that purpose issued and published in the "Government Gazette," such company to construct the necessary works for supplying any town named in the said proclamation with gas.

Power to break up streets &c. under

5. The said company so proclaimed, and its agents, servants, and workmen, shall thereupon be entitled to open and break up the soil and pavement of the several streets and bridges in the town or

place in which it is declared entitled, by the said proclamation, to establish gasworks, and to open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same pipes, conduits, service pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas; and for the purposes aforesaid to remove and use all earth and materials in and under such streets and bridges; and in such streets to erect any pillars, lamps, and other works, and do all other acts which the said company shall from time to time deem necessary for supplying gas to the inhabitants of the said town or place and its environs, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

superintendence, and to open drains.

6. Provided always, that nothing herein shall authorize or empower the said company to lay down or place any pipe or other works into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof, except that the said company may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Ordinance, and may repair or alter any pipe so laid down.

Not to enter on private land without consent.

7. Before the said company proceed to open or break up any street, bridge, sewer, drain, or tunnel they shall give to the municipal council for the town proclaimed as aforesaid, or other persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Notice to be served on persons having control, &c. before breaking up streets or opening drains.

8. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by the municipal council of the town or place; and such council may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel,

Streets or drains not to be broken up except under superintendence of persons having control of the same.

If persons having the control fail to superintend

company may proceed with the work.

after having had such notice of the said company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be reinstated without delay.

9. When the said company open or break up the road or pavement of any street or bridge, or any sewer or tunnel, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in reinstating streets.

10. If the said company open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said company are hereby authorized to perform such works without any superintendence or notice; or if the said company make any delay in completing any such work, or in filling in the ground or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and they shall forfeit an additional sum not exceeding five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, other parties may reinstate, and recover the expense.

Expense how to be ascer-

11. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the said company; and the amount of such expense shall, in case of any dispute about the same, be ascertained

by the municipal council of the town or place, and shall be certified to by the chairman or secretary thereof, and if the company should fail to pay the same within a week after notice thereof, the amount appearing in the certificate shall be recovered by the police court or bench of magistrates, as if it were a fine imposed by such court or bench, whether or not such amount shall exceed the sum which the police court has jurisdiction to award by way of fine.

tained and recovered.

12. The clerk, engineer, or other officer duly appointed for the purpose by the said company may at all reasonable times enter any building or place lighted with gas supplied by the said company in order to inspect the meters, fittings, and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said company a sum not exceeding five pounds.

Power to enter buildings for ascertaining quantity of gas consumed.

13. If any person supplied with gas, or any person to whom any meter or fitting shall have been let for hire by the said company neglect to pay the rent due for the same to the said company, the said company may stop the gas from entering the premises of such person, by cutting off the service pipes, or by such means as the said company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the gas, by action in any court of competent jurisdiction.

Recovery of rent due for gas.

14. In all cases in which the said company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Ordinance, the said company, their agents or workmen, after giving twenty-four hours previous notice to the occupier, may enter into any such house, building, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the said company.

Power to take away pipes when supply of gas discontinued.

15. Any meter or fitting let for hire by the said company shall not be subject to distress for rent or revenue or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a court, or any proceeding in insolvency against the person in whose possession the same may be.

Meters not liable to distress for rent, &c.

16. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the said company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the gas, or shall supply any other person with any part of the gas supplied to him by the said company, shall forfeit to the said company the sum of five pounds for every such offence, and also the sum of two pounds for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be committed or continued, or such

Penalty for fraudulently using gas.

supply furnished; and the said company may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for wilfully damaging pipes.

17. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said company for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the said company, shall for each such offence forfeit to the said company any sum not exceeding five pounds in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

18. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said company, or under their control, shall pay such sum of money by way of satisfaction to the said company for the damage done, not exceeding five pounds, as any police court or bench of magistrates shall think reasonable.

Penalty for causing water to be corrupted.

19. If the said company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the said company shall forfeit for every such offence a sum not exceeding one hundred pounds; and they shall forfeit an additional sum not exceeding fifty pounds for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said company by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby; and such penalties shall be paid to such last-mentioned person.

Daily penalty during the continuance of the offence.

Daily penalty during escape of gas after notice.

20. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said company, they shall immediately after receiving notice thereof in writing prevent such gas from escaping; and in case the said company shall not, within twenty-four hours next after service of such notice, effectually prevent the gas from escaping and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of five pounds for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of notice.

Penalty if water be fouled by gas.

21. Whenever any water shall be fouled by the gas of the said company they shall forfeit to the person, the water used by whom shall be so fouled, for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine gas

22. For the purpose of ascertaining whether such water be fouled by the gas of the said company, the person to whom the

water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the said company; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours notice in writing to the said company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are herein-before provided with respect to roads and pavements broken up by the said company for the purpose of laying their pipes.

pipes to ascertain cause of water being fouled.

23. If upon any such examination it appear that such water has been fouled by any gas belonging to the said company the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said company; but if upon such examination it appear that the water has not been fouled by the gas of the said company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said company any injury which may be occasioned to their works by such examination.

Expenses to abide result of examination

24. The amount of the expenses of every such examination and repair, and of any injury done to the said company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in section 11 of this Ordinance.

How expenses to be ascertained.

25. Nothing in this Ordinance contained shall prevent the said company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying gas.

Liability to indictments for nuisance.

26. A copy of the original deed of association of the company formed as aforesaid, and of every other instrument registered under the said Joint Stock Companies Act, under which such company may be found as constituting the regulations of the said company, and a copy of every special resolution of a general meeting whereby any change shall have been or at any time shall be made in the regulations of the said company, shall be kept at the office of the said company in the town or place where the gas-works are established, and shall there be open to the inspection of all persons during the usual hours of business of the said office; and a copy of such original deed of association, and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said company as soon as it can be done after the passing of this Ordinance, or after the making of any such special resolution hereafter to be made, in the office of the registrar of joint stock companies, or if there be no such officer, in the office of the Registrar of the Supreme Court, and shall there be filed; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the registrar of joint stock companies, or of the keeper of the records of the

Copies of the original deed of association, and of all rules, &c., to be kept for inspection at the office of the company in the town or place where the gasworks are established, and in the office of the registrar of joint stock companies, or the keeper of the records of the Supreme Court.

said Supreme Court, shall be good and sufficient evidence of each such original deed, instrument, or special resolution in all actions, suits, and proceedings whatsoever, whether civil or criminal, to be had in any court of justice, or before any magistrate, or revenue or other officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry throughout this Island.

Service of process.

27. All services of process, and all notices whatsoever, which by law or by the practice of any court wherein the said company shall sue or be sued are required to be made, served, or given for any purpose whatsoever to the said company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, by leaving the same, addressed to the managing agent of the said company, at the office of the said company.

6th January 1869.

206.

No. 2 of 1869.

An Ordinance to establish further Tolls.

Preamble.

Whereas it is expedient to establish the tolls herein-after specified: It is hereby enacted as follows:

Certain road tolls established.

1. From and after the passing of this Ordinance, tolls shall be established on the roads herein-after specified, at the places herein indicated, or at such other places as the Governor from time to time, by proclamation, shall appoint.

Tolls.

On the road from Minuwangoḍa to Koṭadeniyáwa, between the 25th and 26th mile posts.

On the road from Pẹlmaḍulla to Rakwána, between the 81st and 82nd mile posts.

On the road from Colombo to Avisáwélla, near the 23rd mile post.

On the road from Ratnapura to Badulla, instead of the ferry toll at Warakátoṭa, toll between the 58th and 59th mile posts.

6th January 1869.

207.

No. 4 of 1869.

An Ordinance to amend the Ordinance No. 12 of 1867.

Preamble.

Whereas it is expedient to amend the Ordinance No. 12 of 1867, entitled "An Ordinance to provide for the military expenditure of the Colony:" It is hereby enacted as follows:

160,000*l.* to be paid as fixed commutation for military expenditure.

1. The fifth section of the said Ordinance is repealed, and in lieu thereof it is provided that the sums authorized to be paid by the fourth section of the said Ordinance shall be deemed to be a fixed commutation payable by the Colony in full return for its

military defence, and shall be paid monthly in advance into the imperial treasury chest in this Island, on account of Her Majesty's Government: Provided that as the said commutation is based upon the understanding that the force specified in the Schedule hereto annexed shall be provided and stationed in the Colony for its protection in time of peace, the Colony shall be entitled, in the event of the force actually provided and stationed in the Colony falling below the number in non-commissioned officers, rank, and file. as set forth in the said Schedule, by any number of men exceeding twenty-five on the monthly average of the year, to recover from the treasury chest as aforesaid at the rate of one hundred pounds for each European artillery or infantry soldier, and of fifty pounds for each native infantry soldier or gun lascar, for the total number of men by which the said average shall have fallen below the establishment.

Force to be provided for such commutation.

First proviso.

In case the force provided fall below that agreed upon.

Provided further, that no deduction shall be made for a deficiency of European infantry which is made up by an excess of artillery, or for a deficiency in native soldiery which is made up by an excess of European.

Second proviso.

Deficiency of inferior force to be made up by excess of superior force.

Provided further, that such commutation shall not include the expense of any movement of troops required by the Civil Government of Ceylon in the event of internal disturbance rendering it necessary to detach bodies of troops from their established quarters to other places.

Third proviso.

Movement of troops required by the Colonial Government.

And provided lastly, that such fixed commutation shall include only repairs of military works and buildings, and shall not include the construction of such works and buildings, or the repairs or construction of fortifications.

Fourth Proviso.

Fixed commutation not to include construction of military works and buildings, or repairs or construction of fortifications.

2. This Ordinance and the Ordinance No. 12 of 1867 shall be read and construed as if they formed one Ordinance.

This and Ordinance 12 of 1867 to be deemed one.

SCHEDULE.

2 batteries of royal artillery, consisting of	203	non-commissioned officers, rank and file.		
1 battalion of European infantry	"	800	"	"
1 battalion of native infantry	"	816	"	"
1 company gun lascars	"	89	"	"

13th January 1869.

208.

No. 5 OF 1869.

An Ordinance to repeal certain Enactments, and to make further provision relating to the new Edition of the Enactments authorized by the Ordinance No. 6 of 1867.

WHEREAS it is expedient to repeal certain enactments which have ceased to be necessary, but have not heretofore been expressly

Preamble.

repealed, and to make further provision relating to the new edition of the enactments authorized by the Ordinance No. 6 of 1867: It is therefore hereby enacted as follows:

1. Repealing clause.

Naturalization Bills.

2. It shall not be necessary to publish at length in the new edition of the enactments provided for by the Ordinance No. 6 of 1867, the different Naturalization Ordinances which have heretofore been passed in this Colony. The first may be published at length; but, as respects the rest, it shall be only necessary to publish the title of the different enactments, and their number and date, and they shall all be presumed to be in the same terms as the first.

15th January 1869.

209.

No. 7 of 1869.

An Ordinance to provide an uniform mode of Oaths.

Preamble.

Whereas it is expedient to provide an uniform mode of oaths to be taken by holders of office: It is hereby enacted as follows:

1. Has had its effect.

Forms of oaths.

2. The forms of oaths to be henceforward taken in this Island by holders of office shall be as follows, any custom, law, or Ordinance to the contrary notwithstanding.

Oath of Allegiance.

"I, do swear that I will be faithful and bear
"true allegiance to Her Majesty Queen Victoria, her heirs and
"successors, according to law.
"So help me God."

Official Oath.

"I, do swear that I will well and truly serve
"Her Majesty Queen Victoria in the office of
"So help me God."

Judicial Oath.

"I, do swear that I will well and truly serve
"Her Majesty Queen Victoria in the office of
"and I will do all right to all manner of people after the laws
"and usages of this Colony, without fear or favour, affection or
"ill-will.
"So help me God."

Oath to be taken by executive and judicial officers.

3. All heads of departments other than judicial, and officers other than judicial, who are required to take oaths before assuming office, shall take the oath of allegiance and official oath. All judicial officers shall take the oath of allegiance and judicial oath.

4. If any officer required to take the oaths above directed declines or neglects to do so, he shall, if he has already entered on his office, vacate the same, and if he has not entered on the same, be disqualified from doing so; but no person shall be compelled, in respect of the same appointment to the same office, to take such oaths more than once.

Penalty for not taking required oaths.

5. When an oath is required to be taken under this Ordinance, every person permitted by law to make an affirmation or declaration instead of taking an oath may, instead of taking such oath, make a solemn affirmation in the form of the oath hereby appointed, substituting the words "solemnly, sincerely, and truly declare and affirm," for the word "swear," and omitting "So help me God."

Provision in favour of persons permitted to make affirmations.

6. When in any oath the name of Her present Majesty is expressed, the name of the Sovereign for the time being shall be substituted from time to time.

The name of the Sovereign for the time being to be used in oaths.

7. The oath of allegiance, official oath, and judicial oath may be administered by any person empowered by law to administer an oath.

Who may administer oaths.

13th October 1869.

210.

No. 8 of 1869.

An Ordinance to discourage the Illicit Sale of Wine, Arrack, Rum, or Spirits.

Whereas the illicit sale by retail of wine, arrack, rum, and spirits is greatly on the increase, and it is expedient to check the same: It is hereby enacted as follows:

Preamble.

1. The punishment for the offences created by the 26th and 29th sections of the Ordinance No. 10 of 1844, entitled "An "Ordinance to amend the Law relative to the Distillation and Sale "of Arrack, Rum, and Toddy within these Settlements," shall be a fine not exceeding five pounds, or imprisonment, with or without hard labour, not exceeding three months, or both.

Punishment for breach of sections 26 and 29 of Ordinance No. 10 of 1844 increased.

2. This Ordinance and the said Ordinance No. 10 of 1844 shall be read and construed as if they were one Ordinance.

This and Ordinance 10 of 1844 to be deemed one.

13th October 1869.

211.

No. 9 OF 1869.

An Ordinance relating to the Payment of the Railway Debt.

Preamble.

WHEREAS by the Ordinance No. 2 of 1856 a duty was imposed on exports to provide additional means in aid of the general revenue, to pay interest on the debt contracted for the construction of the line of railway from Colombo to Kandy, and by the Ordinance No. 7 of 1864 further arrangement was made for the payment of such debt: And whereas owing to the large profits heretofore realised from working the railway, the continuance of which there is no reason to doubt, it is no longer necessary to continue the said duty or arrangement: It is therefore hereby enacted as follows:

1. Has had its effect.

2. Repealing clause.

Railway receipts to be carried to account of general revenue, and the same made liable for payment of railway debt.

3. All railway receipts shall be carried to the account of the general revenues of the Island, and shall be paid into the Colonial Treasury, and such general revenue is hereby charged with the payment of the interest and principal of the whole debt, as a primary charge thereon.

29,000*l* to be paid half-yearly to trustees.

4. The Governor is hereby authorized and empowered to issue half-yearly his warrant for the payment from the general revenue of a sum sufficient to realise in London 29,000*l*. Such payment to be made to the trustees of the Sinking Fund, appointed under section 6 of the Ordinance No. 7 of 1864, on the 15th day of May and the 15th day of November in each year; the first payment to be made on the 15th day of May 1870, and the payments be continued thereafter for fourteen years, or such shorter period as may suffice to extinguish the debt.

Governor may, if necessary, increase the half-yearly payments.

5. In the event of its being made apparent to the Governor that the provision hereby made is insufficient to meet the payment of principal and interest of the said debt, it shall be lawful for the Governor, with the advice of the Executive Council, to increase the payments to be made half-yearly to such extent as may be necessary to discharge the debt at maturity.

Application and investment of such half-yearly payments, and of the balance in the sinking fund at the commencement of this Ordinance.

6. The said trustees shall apply the said payments to be made half-yearly as by the preceding sections directed, and the balance that will have accrued to the Sinking Fund formed under the Ordinance No. 7 of 1864, at the date of the bringing into operation of this Ordinance, as well as the dividends, interest, or produce accruing from time to time from the investment of the monies in their hands, (and which said investments they are hereby authorized to continue,) to the payment of the interest due on the debentures issued under the Ordinances No. 19 of 1862, and No. 7 of 1864, to the redemption of such debentures as they fall due, and to the payment of the contingent expenses arising out of the administration of the fund; and any balance that may remain in the hands of the trustees after the extinction of the whole debt and the payment of the contingent expenses thereon shall be paid over to the Colonial Treasury.

7. If the holder of any debenture issued after the enactment of the Ordinance No. 7 of 1864 shall object, within one year from the date of this Ordinance coming into operation, to the arrangement hereby made for the security of the debt due on such debenture, it shall be lawful for the said trustees to pay him out of the monies in their hands available for investment the amount of his debenture and the interest due thereon, together with a share of the premium originally paid to Government on such debenture, proportionate to the time that the debenture has to run at the date of its redemption. If such funds shall prove unequal to meet the demands of any such dissentient debenture holders, the Crown Agents are hereby empowered to raise any sum, not exceeding the amount of the debentures so to be redeemed before maturity, by the issue of fresh debentures bearing interest at the rate of six per cent. per annum, chargeable upon the general revenue of the Colony, and payable at the dates originally fixed upon for the payment of the retired debentures, and to pay the amount so raised to the trustees appointed under Ordinance No. 7 of 1864 for the objects above indicated.

Objecting debenture holder may be paid off.

27th October 1869.

212.

No. 10 OF 1869.

An Ordinance to amend the Postal Ordinance, 1865.

WHEREAS it is expedient to amend "The Postal Ordinance, 1865:" It is enacted as follows:

Preamble.

1. Has had its effect.

2. Repealing clause.

3. The Colonial postage on letters forwarded by the post, and prepaid, shall be charged by weight, as far as the boundaries of this Island, according to the following scale:

Postage on prepaid letters to be charged by progressive half ounces.

On every letter not exceeding ½ oz. in weight -	1*d.*
On every letter exceeding ½ oz. and not exceeding 1 oz. - - - - - -	2*d.*
On every letter exceeding 1 oz. and not exceeding 1½ oz. - - - - -	3*d.*

and so on, increasing 1*d.* for every additional half ounce or part of a half ounce.

Every article transmitted by the letter post shall be deemed a letter within the meaning of this section, unless it be an article on which a different rate of postage shall be chargeable under the Postal Ordinances.

If any letter be posted unpaid or insufficiently prepaid, it shall be charged double the amount of the deficient postage which would have been originally due thereon.

Double postage to be charged on unpaid letters.

Postage on unpaid or insufficiently prepaid letters, &c. refused by addressees.

4. The person to whom any letter or other article, the full postage of which has not been prepaid, shall be tendered for delivery, shall not be bound to pay the postage if he forthwith return the same unopened, but if he open the same, or do not forthwith return it unopened, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender shall be bound to pay the postage due thereon.

Refused letters, &c. to be returned to posting office when sender's name is known, without opening; but if opening be necessary, to be sent to the chief office of the province in which the posting office is situate.

5. Every letter or other article rejected unopened by the person to whom it is addressed shall, if the sender's name and address be written on the cover, or be known without opening the letter or other article, be returned to the posting office to be delivered to the sender free of all charge if the proper postage had been prepaid; but if this had not been prepaid, then the postage due thereon shall be recovered from the sender; in all other cases, or when the sender's name and address are not on the cover, or not known without opening, such letter or other article shall be forthwith sent to the chief office of the province in which the posting office is situated, and the principal officer of such chief office, or some person duly appointed for the purpose by the Postmaster General, and no other, and bound to secrecy, shall open the letter or other article, and take measures to recover the postage, if any be due, from the sender, or shall, if the sender cannot be found, forward the same to the Postmaster General, to be destroyed, or dealt with as the circumstances of each case may require; and all money or other valuable property which such letter or other article may contain shall, when the sender is not known, or when the postage thereon cannot be recovered from him, be disposed of in the manner prescribed in the 6th section, with respect to money or property contained in unclaimed letters.

Unclaimed letters how to be dealt with.

6. The rule as to unclaimed letters shall be as follows:

(1.) A list of all letters and other articles posted and addressed to persons who cannot be found shall be prepared daily in every post office, and exposed for not less than two weeks in the most conspicuous part of the premises, and every such letter and other article which shall have remained three weeks unclaimed in any office shall, if the sender's name and address are written on the cover, or are known without opening the letter or other article, be returned to the posting office, to be delivered to the sender, free of all charge if the proper postage had been prepaid, but if it had not been prepaid, the postage due thereon shall be recovered from the sender. Every letter and other article of which the sender's name and address cannot be ascertained without opening shall, after remaining unclaimed at the office of delivery for three weeks as aforesaid, be forwarded to the chief office of the province in which the posting office is situate.

Unclaimed letters, when sent to chief provincial office, to be be opened,

(2.) The principal officer of such chief office, or some other person authorized thereto by the Postmaster General, and bound to secrecy, and no other, shall immediately open all such letters or other articles; and if the addresses of the senders can be discovered, shall enclose them in dead

letter covers, and return them to the senders free of charge, if the proper postage had been prepaid, but if such proper postage had not been prepaid, then the postage due thereon shall be recovered from the senders. All letters and other articles, of which neither the persons to whom they are addressed nor the senders can be found, shall, after they have remained unclaimed in the chief office of the province in which the posting office is situated for three months, be forwarded to the office of the Postmaster General, who shall either destroy them, or deal with them as the circumstances of each case may require.

and returned in dead letter cover to senders (charged with any postage due on them).

(3.) All money found in any unclaimed letter or in any other article shall be paid into the public treasury; and all other valuable property found as above shall be sold by the Postmaster General, or by some one duly authorized by him for that purpose, and no other, and the proceeds of the sale shall be paid into the public treasury.

Money, &c. found therein how disposed of.

7. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of Her Majesty in the manner prescribed in the 55th section of "The Postal Ordinance, 1865:" Provided always, that if the letter or other article shall appear to the satisfaction of the chief officer of the office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, such officer may remit the postage.

Postage due how recoverable summarily.

8. In all suits or proceedings whatever for the recovery of pastage payable under or by virtue of the postal laws, the production of any letter or other cover in respect of which such postage shall be sought to be recovered, having thereon a post office stamp, or note made by an authorized post office employé that such letter or other article had been refused or rejected, or that the party to whom such letter or other article had been addressed was dead, or could not be found, shall be *primâ facie* evidence of the truth of such stamp or note aforesaid according to the import of the said stamp or note; and the person from whom any letter or other article in respect of which postage is sought to be recovered shall purport to have come, shall be deemed to be the sender thereof, and the onus shall lie upon the party proceeded against to prove that such letter did not come from and was not sent by him; and the post office tax upon any letter or other article shall be *primâ facie* evidence of the liability of such letter to be so taxed, and that the sum so taxed thereupon is payable as and for the postage thereof.

Evidence of refusal, &c. of letters, &c., of the sender of letters; and of the post office tax.

9. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make rules or regulations for any of the following purposes:

Rules may be made for certain purposes.

(1.) To secure the prepayment of all or any letters or articles forwarded by post.

Prepayment.

(2.) To provide for transmission of telegrams by post.

Telegrams.

(3.) To determine the rates of postage to be levied on all letters or other articles transmitted by post by sea, or partly by sea and partly by land, to places in India and other

Postage on letters, &c. between Ceylon and other

countries, in certain cases.

countries, in cases other than those provided for in article 5 of this section, and by packets other than mail contract packets, as to which directions or suggestions have been or shall hereafter be received from Her Majesty's Postmaster General.

Official letters, &c.

(4.) To provide for the franking of official letters or other articles, and the free transmission, or otherwise, through the post of official letters, packets, or parcels, and as to the use of service postage labels. Should any person, privileged or not privileged under such rules, contravene such rules, with intent to defraud the post office revenue, (of which said intent the sending of any private note or packet, or private communication of any sort or kind under or upon an official cover, shall be *primâ facie* evidence), it shall be deemed an offence, and any person found guilty thereof shall be liable, on conviction, to a fine not exceeding five pounds.

Postage levied under suggestions from Her Majesty's Postmaster General, or the Secretary of State for the Colonies.

(5.) To determine (in consequence of suggestions received in that behalf from Her Majesty's Postmaster General, or the Secretary of State for the Colonies) the rates of postage on letters, newspapers, price current, commercial lists, patterns, or samples of merchandise, book packets, or parcels despatched from the Island to places out of the same.

(6.) To authorize the Postmaster General, or any of his deputies or assistants, to detain any post letter, pattern, or sample parcel, book packet, or parcel suspected to contain any goods subject to duty, and to forward the same to the nearest collector or sub-collector of customs, that he may ascertain whether the contents thereof are liable to duty, and to provide for the collection of postage and customs duty thereon.

Transmission of parcels, other than patterns or samples, or book packets.

10. The transmission of parcels, other than patterns or samples of merchandise or book packets, by the post, shall only take place at such periods, and to and from such parts of this Island, and at such rates or charges, and with such limitations as to their weight, size, and the nature of their contents, as shall from time to time, by previous notice in "the Gazette," be directed by the Governor, with the advice of the Executive Council: Provided, however, that the rates and charges at present leviable on parcels, and the limitations at present in force, and which said rates, charges, and limitations are herein set out, shall continue to be in force until any alteration shall be made therein by notice as aforesaid.

						s.	*d.*
Upon parcels not exceeding				1 lb.	- -	0	8
Exceeding 1 lb. and not exceeding				1½ lbs.	- -	1	0
„	1½ lbs.	„		2 lbs.	- -	1	4
„	2 lbs.	„		2½ lbs.	- -	1	8
„	2½ lbs.	„		3 lbs.	- -	2	0

(1.) The postage shall be prepaid in full, otherwise the parcel shall be liable to the charges mentioned in clause 6 of this section.

(2.) Except as provided for in section 13 of this Ordinance, no parcel shall exceed 3 lbs. in weight, and two feet in length, and one foot in width or depth; and every parcel destined for transmission along tappal lines, that is, lines where the mails are carried by men on foot, shall be made up in a form which can be conveniently carried by a post office runner.

(3.) It shall be lawful for the chief officer in charge of any post office to refuse to receive for transmission along any such tappal line any parcel unless it be securely packed.

(4.) The sender shall certify, under his full signature and address, in writing on the parcel, that it does not contain any letter or other written communication or article on which a higher rate of postage is chargeable by law. If any such certificate be false, or there be no such certificate, the parcel shall be charged as an unpaid letter according to its weight, and in the case of a false certificate the sender shall be subject to a penalty not exceeding fifty pounds.

(5.) Parcels will be forwarded only on days when the weight of the ordinary mails will permit of it.

(6.) If the postage on a parcel be not fully prepaid, it shall, nevertheless, be forwarded charged with parcel postage of double the amount of the difference between any postage which may have been prepaid and the postage to which it would be liable if duly and properly prepaid when posted.

(7.) It shall be the duty of all postmasters and postholders, whenever they have grounds for suspecting an infringement of any of the above conditions, to open and examine parcels posted at or passing through their offices.

(8.) On parcels re-directed, and liable to re-direction postage, under section 17 of "The Postal Ordinance, 1865," parcel postage at single rates shall be charged.

Charges on patterns and samples of merchandise and book packets.

11. The charges on patterns and samples of merchandise and on book packets sent by the post to any place within the Colony shall be as follows, anything in the 13th and 14th sections of "The Postal Ordinance, 1865," to the contrary notwithstanding:

Weighing not more than 2 oz. - - -	1*d.*
Weighing more than 2 oz. and not exceeding 4 oz.	2*d.*

and so on, increasing 1*d.* for every additional 2 oz. or any less weight.

The conditions on which such patterns and samples of merchandise and book packets are to be sent will continue to be the

Proviso.

same as those prescribed by the said sections: Provided, however, that whenever it shall be made to appear that on any particular line of road on which the tappal is not carried by runners, or on which there is not much pressure of letters and newspapers, the charges on patterns and samples of merchandise and book packets may be reduced, and the condition that they shall not exceed 3 lbs. in weight may be relaxed, it shall be lawful for the Governor, with the advice of the Executive Council, by proclamation from time to time, to reduce on any such line of road the charges herein directed for carrying patterns and samples of merchandise and book packets, and to fix as a limit a greater weight than that specified in those sections.

Book packets or parcels between India and Ceylon by land route.

12. And whereas there now exist several opportunities in every month of postal communication with India by mail contract steamers, and it is in consequence possible for the senders of patterns and samples of merchandise, book packets, and parcels between Ceylon and India, to transmit them more speedily in general by such mail packets than by the land route viâ Jaffna and Point Kalemir: And whereas it is further desirable to lessen the weight of the mails on the tappal line, already overburdened, between Kandy and Jaffna: It is enacted, that all patterns and samples of merchandise, book packets, or parcels directed to any place in India, and transmitted by the land route aforesaid, shall be charged, as far as the boundary of this Island, double the inland rates levied under the authority of the postal laws on such patterns and samples of merchandise, book packets, and parcels passing within Ceylon; and that all such packets and samples of merchandise, book packets, and parcels coming to Ceylon from India by land shall be charged as from the boundaries of Ceylon the same double inland rates as aforesaid: Provided that it shall be competent for the Governor, with the advice of the Executive Council, to exempt by proclamation from the operation of this rule patterns and samples of merchandise, book-packets, or parcels sent from or received at any place not within reasonable distance of communication with steamers. Book packets or parcels so exempted shall be liable to pay only single inland rates as heretofore.

Return to sender of articles posted.

13. No person having delivered into any post office any letter or other article shall be entitled to recall the same on any pretence whatever; but nothing in this section shall prevent the re-delivery of any letter or other article to the sender thereof, upon an express order of Government.

Letters not to be more than 2 feet long, 1 foot broad or deep, or (if wholly unpaid) to weigh more than 4 ounces.

14. No letter or other article can be forwarded by the post which shall exceed two feet in length or one foot in breadth or depth, or, if wholly unpaid, which weighs more than four ounces, with the following exceptions:

Letters or packets to or from places abroad:

Official letters or packets to or from any of the Government offices or departments or public officers.

If any letter or other article be posted contrary to the provisions of this section, it may be detained and opened, and being charged with double the amount of the difference between the postage which may have been prepaid and that which should have been prepaid according to postal rates, shall, at the option of the Postmaster General, or his assistants or deputies, so charged as aforesaid, be either returned or given up to the sender thereof, or be given to the person to whom it shall be addressed, or be forwarded to the place of its destination. Exceptions.

15. Every person employed by or under the post office to deliver a letter or other article sent by the post who shall not duly deliver the same, shall be bound within a reasonable time, not exceeding twenty-four hours, to report the fact at the post office where he received such letter or other article, and to return the same; and if any such person shall fail to make such report, or shall wilfully make a false report, he shall be liable to a fine not exceeding five pounds; and if any person so employed as aforesaid shall knowingly demand from the person to whom any letter or other article entrusted to him for delivery is addressed any fee or gratuity or sum of money other than what is properly chargeable under the authority of the postal laws, he shall be dismissed, and shall be liable to a fine not exceeding ten pounds. Penalty on delivery carrier for not duly reporting non-delivery; and for demanding fee or gratuity.

16. It shall not be lawful for any person whomsoever to detain a mail coach or cart while carrying mails, or to do any act whereby such coach or cart carrying mails may be likely to be detained, or whereby the safety of such coach or cart carrying mails, or of the mails or passengers carried thereby, may be endangered, and every person so doing shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding fifty pounds. Penalty for detaining mail coach or cart, or any act whereby their safety and that of mails and passengers may be endangered.

17. Whoever abets or conceals any offence made punishable under this Ordinance, or the Ordinance No. 27 of 1865, entitled "An Ordinance to amend and consolidate the Laws relating to the Post Office and to the Rates of Postage," shall be punished with the punishment provided for the offence which he so abets or conceals. Penalty for abetting or concealing offences under Postal Acts.

18. The Government shall not be responsible for any loss or damage which may occur in respect of anything entrusted to the Post Office for conveyance; and no person employed by Government or the Post Office Department shall be responsible for any such loss or damage unless that person shall cause such loss or damage negligently, maliciously, or fraudulently. Government not responsible for loss or damage. Post office employé when responsible.

19. This Ordinance and the Ordinance No. 27 of 1865 shall be read and construed as if they formed one Ordinance. This and Ordinance No. 27 of 1865 to be deemed one.

10th November 1869.

213.

No. 12 OF 1869.

An Ordinance to regulate the Use of Traction Engines.

Preamble.

WHEREAS it is expedient to regulate the use of traction engines in Ceylon: It is hereby enacted as follows:

No traction engine to run without a license.

1. No traction engine shall run on any road in this Island without a permit having been first obtained for that purpose from the Director of Public Works, if the road shall fall without the limits of a municipality, and from the chairman of the municipal council if the road shall fall within the limits of a municipality.

Rules and regulations prescribing use of engines, and tolls payable therefor.

2. It shall be lawful for the Governor, with the advice of the Executive Council, to make rules and regulations prescribing the terms and restrictions to which persons running traction engines shall be subject, and the tolls payable on such engines and the waggons attached to them.

Penalty.

3. Any person running a traction engine without a permit, or contrary to any of the above rules and regulations, shall be guilty of an offence, and be liable on conviction to a fine not exceeding one hundred pounds; and it shall be lawful for the court before which such offence is tried to cause the use of such traction engine to be stopped.

Civil remedy for damages reserved.

4. Nothing in the preceding section contained shall be held to affect the right of the Government or any private party to recover compensation from the owner of any traction engine for any loss, damage, or injury which may be sustained by the public or by any private party by the use of such traction engine with or without permit.

Duration of Ordinance.

5. This Ordinance shall cease to have effect on the 31st day of December 1870.

1st December 1869.

214.

No. 13 OF 1869.

An Ordinance to prevent the wanton Destruction of Elephants, and to restrict their Removal from the Island.

Preamble.

WHEREAS it is expedient to prevent the wanton destruction of elephants, and to restrict their removal from the Island: It is therefore hereby enacted as follows:

No person to catch or shoot elephants without license.

1. No person shall catch, shoot, or otherwise destroy an elephant in any part of this Island without first obtaining a license for that purpose, as herein-after prescribed: Provided that this prohibition shall not apply to the destruction of elephants trespassing on cultivated lands.

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2. It shall be lawful for the Government Agent of any province, or the Assistant Government Agent of the district, to issue licenses empowering any person or persons therein named to catch, shoot, or otherwise destroy elephants, and to define in such licenses the time during which they are to be in force, and the terms and conditions subject to which any elephant may be caught, shot, or destroyed. Such license shall be on a stamp of one pound, to be supplied by the applicant.

Government Agent or Assistant Government Agent to issue licenses.

Stamp on licenses.

3. Any person catching, shooting, or otherwise destroying elephants without a license, or after it shall cease to be in force, or contrary to any of its terms and conditions, shall be guilty of an offence, and be liable on conviction to a fine of five pounds for each elephant so caught, shot, or destroyed, and any elephant which shall be captured without a license shall be forfeited.

Penalties for shooting without license, or contrary to the license.

4. Elephants removed from this Island to any place beyond the seas shall be henceforward subject to the payment of such sum, not exceeding twenty pounds, as a royalty, as the Governor shall by proclamation to be by him from time to time issued appoint. Such royalty shall be collected by the officers of customs at the various places of shipment throughout the Island.

Royalty on elephants removed from the Island.

5. It shall be lawful for the Governor, with the advice of the Executive Council, to make regulations for the conduct of the capture of elephants, and all licenses issued under section 2 shall be subject to such regulations, and any breach thereof shall be punishable as a breach of such license.

Governor to make regulations for the conduct of the capture of elephants.

6. It shall be lawful for any magistrate to direct that any sum, not exceeding one half of the fine actually recovered and realized under the provisions of this Ordinance, shall be paid to the informer.

Informer's share.

15th December 1869.

215.

No. 15 of 1869.

An Ordinance to declare the consent of the Legislature of this Colony to the erection of a Lighthouse on the Great Basses Rocks, and to the Collection of Dues in respect thereof.

Preamble.

18 & 19 Vict. c. 91.

Whereas by "The Merchant Shipping Act Amendment Act, 1855," it is enacted, that in any case in which any lighthouse has been or is hereafter erected on or near the coasts of any British possession, by or with the consent of the legislative authority of such possession, Her Majesty may, by Order in Council, fix such dues in respect thereof, to be paid by the owner or master of every ship which passes the same or derives benefit therefrom, as Her Majesty may deem reasonable, and may in like manner from time to time increase, diminish, or repeal such dues, and from the time specified in such order for the commencement of the dues thereby

fixed, increased, or diminished, the same shall be leviable throughout Her Majesty's dominions in manner in the said Act mentioned ; and that no such dues shall be levied in any colony unless and until the legislative authority in such colony has, either by address to the Crown, or by an Act or Ordinance duly passed, signified its opinion that the same ought to be levied in such colony: And whereas a lighthouse is about to be erected on the Great Basses Rocks near the south-east coast of this Colony, and it is expedient that the Legislature thereof should declare, by Ordinance, its consent to the erection of such lighthouse, and its opinion that such dues as Her Majesty may, by Order in Council, fix in respect thereof, pursuant to the said Act, ought to be levied in this Colony : It is therefore declared and enacted :

Consent of Ceylon Legislature to erection of lighthouse on the Great Basses Rocks; and to the collection in this Colony of dues on ships touching at any port thereof, which may be fixed by Order in Council.

That the lighthouse about to be erected on the Great Basses Rocks, near the south-east coast of this Island, is erected with the consent of the said Governor and Council, and that any dues which may hereafter be fixed by Her Majesty, by Order in Council, in respect of the said lighthouse, ought to be and may be levied in this Colony, in manner provided by the said Act, on all ships arriving or touching at any port or place therein, after or before passing the said lighthouse, or deriving benefit therefrom.

15th December 1869.

216.

No. 16 OF 1869.

An Ordinance to convert the Welikadé and Hultsdorf Prisons into Central Convict Establishments, and to vest in the Superintendent thereof certain powers vested in the Fiscal for the Western Province.

Preamble.

WHEREAS it is expedient to convert the prisons at Welikadé and Hultsdorf in Colombo into central convict establishments, and to place the same in charge of an officer to be called the Superintendent of the Colombo Convict Establishments, and to vest in such officer, so far as respects the custody, care, and management of criminal prisoners in those prisons, the same powers, and to impose upon him the same duties, as are by law conferred and imposed on the Fiscal of the Western Province : It is therefore hereby enacted as follows :

1. Has had its effect.

Prisons at Welikadé and Hultsdorf to form convict establishments, and to be placed under a superintendent.

2. Anything in the Ordinance No. 18 of 1844, entitled "An Ordinance for the better Regulation of Prisons," or any other Ordinance now in force within the Colony to the contrary notwithstanding, the prisons at Welikadé and Hultsdorf shall henceforward form and be termed convict establishments in Colombo, and an officer shall be placed in charge thereof, to be called "The

Superintendent of the Colombo Convict Establishments," who shall have the custody, care, and management of all prisoners charged with criminal offences, and who are either under examination or undergoing sentence.

All powers vested in and duties imposed upon the Fiscal to be exercised and performed by Superintendent of convict establishments.

3. All powers and authorities which are vested in and all duties which are imposed upon the Fiscal for the Western Province, or his assistants, or persons acting under his or their order, by the said Ordinance, or by any other Ordinance now in force within this Colony, shall be, so far as they relate to the custody, care, and management of the criminal prisoners of the prisons at Welikadé and Hultsdorf in Colombo, and the same are hereby declared to be respectively vested in and imposed upon the superintendent of the said convict establishments and his assistants, and persons acting under his or their orders.

Superintendent's, &c. liabilities to penalties for misconduct or neglect of duty.

4. The said superintendent and his assistants, and all persons acting under his or their orders, shall respectively be subject to the same liabilities and penalties for any misconduct or neglect of duty to which the Fiscal for the Western Province and his assistants, and persons acting under his or their orders, are subjected, so far as the said prisons and the prisoners therein are concerned, by the said Ordinance or under any other Ordinance, for the like misconduct or neglect.

Penalty for obstructing the superintendent, &c.

5. Every person who shall obstruct, resist, molest, or hinder, or in any way interfere with or interrupt the lawful discharge of the duties of such superintendent or any of his assistants, or any person acting under his or their orders, shall be guilty of an offence, and be punishable in such and the same manner as such person would be punishable for obstructing, resisting, molesting, hindering, or in any way interfering with or interrupting the lawful discharge of the duties of the said Fiscal or any of his assistants, or of any person acting under his or their orders, so far as the said prisons are concerned.

15th December 1869.

217.

No. 17 OF 1869.

An Ordinance for the General Regulation of Customs in the Island of Ceylon.

Preamble.

WHEREAS it is expedient to regulate the management and collection of the customs and customs duties in the Island of Ceylon, and to consolidate into one Ordinance the laws at present relating thereto: It is hereby enacted as follows :

Section I.

1. Repealing clause.

II.—*Interpretation of Terms used in this Ordinance.*

Interpretation of terms.

2. Whenever the several terms or expressions following shall occur in this Ordinance, or in any other Ordinance relating to the customs, the same shall be construed respectively in the manner herein-after directed, unless there is anything in the context repugnant to such construction; that is to say,

"British possession" shall include colony, plantation, island, territory, or settlement belonging to Her Majesty:

"Coastwise" shall mean the trade by sea from any one part of the Island of Ceylon to any other part thereof:

"Collector" shall mean the principal collector, collector, deputy assistant, sub-collector, or other principal acting officer of customs of any port or place:

"Foreign" shall mean the trade by sea to or from any part or place beyond the limits of the Island of Ceylon:

"Mail steamers" shall mean steamers running under contract with the Imperial, Indian, or any colonial or foreign government:

"Her Majesty" shall mean Her Majesty, her heirs and successors:

"Master" of any ship shall mean the person having or taking the charge or command of such ship:

"Officer of customs" shall mean any person acting as such for the time being:

"Owner" shall alike mean one owner if there be only one, and any or all the owners if there be more than one:

"Queen's warehouse" shall mean any place provided by the Government of this Colony for lodging goods therein for the security of the customs:

"Seamen" shall include mate, mariner, sailor, or landsman being one of the crew of the ship:

"Ship" shall mean ship or vessel of every description:

"Warehouse" shall mean any place provided for the deposit of goods on the landing or for the shipment thereof for the security of the customs:

"Bonded warehouse" shall mean any place approved of by the Governor in which goods entered to be warehoused may be lodged, kept, and secured without payment of duty, although prohibited to be used in the Colony.

III.—*Management.*

Appointment of officers.

Salaries and securities.

3. The Governor, or, under his authority, the principal collector shall appoint proper persons for the management and collection of the customs, and the performance of all duties connected therewith, on such salaries and allowances as may be determined, and may require of every person now employed or who shall hereafter be employed in the service of the customs, such securities for his good

conduct as he shall deem necessary, and the principal collector of customs shall, throughout Ceylon, have the general superintendence of all matters relating to the customs.

Principal collector.

4. Every person employed on any duty or service relating to the customs within this Island, by the orders or with the concurrence of the Governor or the collector, whether previously or subsequently expressed, shall be deemed to be the officer for that duty or service, and every act, matter, or thing required by any law at any time in force to be done or performed by, to, or with any particular officer nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Governor or the collector to act for or in the behalf of such particular officer, shall be deemed to be done or performed by, to, or with such particular officer; and every act, matter, or thing required by any law at any time in force to be done or performed at any particular place within any port, being done or performed at any place within such port appointed by the Governor for such purpose, shall be deemed to be done or performed at the particular place so required.

Persons employed by customs deemed officers for such service.

5. If any officer or other person acting in any office or employment in or belonging to the customs shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly from any person (not being a person duly appointed to some office in the customs) on account of anything done, to be done, or omitted to be done by him in any way relating to his said office or employment, except such as he shall receive under any order or permission of the Governor or collector, such officer or other person so offending shall, on proof thereof, be dismissed from his office, and he shall be deemed guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty pounds; and if any person, not being a person duly appointed to some office in the customs, shall give, offer, or promise to give any such fee, perquisite, gratuity, or reward, such person shall for every such offence forfeit a sum not exceeding one hundred pounds.

Officer taking any fee or reward not allowed shall be dismissed.

Penalty for offering fee.

6. No officer of customs, nor person employed in the collection or management of or accounting for the revenue of customs, or any part thereof, nor any other person acting under him, shall, during the time of his acting as such officer, or of his being so employed as aforesaid, be compelled to serve in any other public office or employment, or to serve on any jury or inquest, any law, usage, or custom to the contrary notwithstanding.

Officers of customs not liable to serve in other local offices.

7. It shall be lawful for the principal collector, with the sanction of the Governor, from time to time to appoint the hours of general attendance of the respective officers and other persons under his survey at their proper offices and places of employment.

Hours of attendance.

8. No day shall be kept as a public holiday by the customs except Christmas Day, New Year's Day, Good Friday, and Easter Monday, in every year, and any days appointed by the Governor's proclamation for the purpose of a general fast or of a general thanksgiving, and also such days as shall be appointed for the celebration of the birthdays of Her Majesty and of her successors.

Holidays.

Collector authorized to administer oaths.

9. In all cases wherein proof on oath shall be required by any law, or shall be necessary in any matter relating to the customs, the same may be made before the collector or other principal officer of customs, or before the persons acting for them respectively, who are hereby authorized and empowered to administer the same.

Collector, &c. may examine witnesses on oath.

10. Upon examinations and inquiries made by the collector or other principal officer of the customs, or other persons appointed by the Governor to make such examinations and inquiries, for ascertaining the truth of statements made relative to the customs, or the conduct of officers or persons employed therein, any person examined before him or them as a witness shall deliver his testimony on oath, to be administered by such collector or other principal officer, or such other persons as shall examine any such witness, who are hereby authorized to administer such oath; and if such person shall be convicted of giving false evidence on his examination on oath before such collector or other principal officer of customs, or such other person in conformity to the directions of this Ordinance, every such person so convicted as aforesaid shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

False oath deemed perjury.

IV.—*Levying of Customs Duties.*

Duties to be levied.

11. From and after the commencement of this Ordinance, the several duties of customs, as the same are respectively inserted, described, and set forth in figures in the table of duties (Schedule B.) hereto annexed, shall be levied and paid upon all goods, wares, and merchandize imported into this Island: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, from time to time to alter and amend the official rated valuation on which the duty is assessed on cotton piece goods and yarns by proclamation in the "Government Gazette," not less than three months before such alteration shall come into force; such proclamation shall have the same effect in law as if it formed part of this Ordinance.

Goods in warehouse to be liable to the duties imposed by this Ordinance.

12. All goods whatsoever which shall have been warehoused without payment of duty upon the first importation thereof, and which shall be in the warehouse when this Ordinance comes into force, shall become liable to the duties imposed by this Ordinance, in lieu of all former duties.

Power to charge rent.

13. On all goods lodged in any Queen's warehouse, warehouse, or place of deposit provided by Government, it shall be lawful for the collector to charge, demand, and receive warehouse rent for all such time as the same shall remain in such warehouse, at such rates and under such regulations as may from time to time be fixed by the Governor, as warehouse rent payable on goods so lodged, and no goods upon which warehouse rent may be due shall be removed until the same be paid.

14. If upon the first levying or repealing of any duty, or upon the first permitting or prohibiting of any importation or exportation, whether inwards, outwards, or coastwise in this Colony, it shall become necessary to determine the precise time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such time, in respect of importation, shall be deemed to be the time at which the ship importing such goods had actually come within the limits of the port at which such ship shall in due coarse be reported, and such goods be discharged; and such time, in respect of exportation, shall be deemed to be the time at which the goods had been shipped on board the ship in which they had been exported; and if such question shall arise upon the arrival or departure of any ship, in respect of any charge or allowance upon such ship, exclusive of any cargo, the time of such arrival shall be deemed to be the time at which the report of such ship shall have been or ought to have been made; and the time of such departure shall be deemed to be the time of the last clearance of such ship with the collector for the voyage upon which she had departed.

Definition of time of an importation or of an exportation; and of an exportation; and of an arrival; and of a departure;

15. All duties of customs, as well as all penalties and forfeitures incurred under this Ordinance, shall be paid and received in the several descriptions of money herein enumerated, and at the rates of exchange specified, viz., in British gold or silver money, or in such other description of money and at such rate of exchange as may from time to time be established by the Governor, and according to the standard weights and measures of this Island; and that in all cases, when such duties are imposed and allowed according to any specific quantity or any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value; and the produce of all duties of customs shall be paid by the collector into the hands of the treasurer or the sub-accountants of the Colony, in such manner and at such periods as may be directed by the Governor.

Duties to be paid in Island currency according to standard weights and measures.

Produce of customs duties to be paid into the treasury, &c.

16. No duty or other customs dues or charges which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within 12 months from the date of such payment, and the collector shall, within the period above specified, repay the duties, dues, or charges so overpaid or paid in error out of moneys received as duties; and when any duties or other customs dues or charges have been short levied through inadvertence, error, or misconstruction on the part of the officers of customs, the person chargeable therewith shall pay the deficiency, provided that the same shall be demanded within 12 months from the date of such short levy; and it shall be lawful for the officers of customs to refuse to pass any goods belonging to such person until the said deficiency be paid.

Return of duty overpaid.

Duty short levied to be made good on demand.

V.—*Port Dues.*

17. Port dues shall be leviable and payable for entry inwards, and for clearance outwards, on all ships arriving at or departing

Port dues.

from, any port of this Island, according to the table of port dues set forth in figures in Schedule D. hereto attached : Provided always, that when a vessel has paid port dues inwards or outwards, she shall not be liable for additional port dues for goods carried coastwise during the same voyage.

Composition for dues.

18. Any coastwise ship shall be allowed to compound for port dues for twelve months at the rate of one shilling per ton of the registered tonnage, and on payment thereof the collector or other principal officer shall grant a certificate which shall exempt such vessel while so employed from any further demand for port dues during the period stated in such certificate.

Tonnage of ship how ascertained.

19. The tonnage or burthen of every British ship, within the meaning of this Ordinance, shall be the tonnage set forth in the certificate of registry of such ship, and the tonnage or burthen of every other ship shall for the purposes of this Ordinance be ascertained in the same manner as the tonnage of British ships is ascertained.

VI.—*Regulations Inwards.*

20. And whereas it is expedient that the officers of customs should have full cognizance of all ships coming into any port or place in this Island, or approaching the coast thereof, and of all goods on board or which may have been on board such ships, and also of all goods unladen from any ships in any port or place in this Island : It is enacted that no goods shall be unladen from any ship arriving from parts beyond the seas at any port or place in this Island, nor shall bulk be broken after the arrival of such ship within one league of the coast thereof, before due report of such ship and sufferance granted, in manner herein-after directed ; and that no goods shall be so unladen except at such times and places and in such manner and by such persons and under the care of such officers as herein-after directed ; and that all goods not duly reported, or which shall be unladen contrary hereto shall be forfeited; and if bulk be broken contrary hereto the master of such ship shall forfeit a sum not exceeding one hundred pounds; and if after the arrival of any ship within one league of the coasts of this Island any alteration be made in the stowage of the cargo of such ships so as to facilitate the unlading of any part of such cargo, or if any part be staved, destroyed, or thrown overboard, or any package be opened, such ship shall be deemed to have broken bulk : Provided always, that coin, bullion, cattle, and other live stock, and passengers with their baggage, may be landed previous to report, entry, or sufferance.

No goods to be landed nor bulk broken before report.

Times and places of landing, and care of officers.

Goods not reported or entered forfeited.

Penalty.

Except coin, bullion, cattle, passengers.

Ship and cargo to be reported within 24 hours of arrival of ship.

21. The master of every ship arriving at any port or place in this Island, whether laden or in ballast, shall come within twenty-four hours after such arrival, and before bulk be broken, to the Custom House, and there make a report in writing, and such report shall be in duplicate, and shall make and subscribe a declaration to the truth of the same before the collector or other officer of customs of the arrival and voyage of such ship, stating the name, country, and tonnage, and if British, the port of registry, the name and country of master, the country of the owners, the

Particulars of report.

number of the crew, and how many are of the country of such ship, the number of passengers, if any, and whether such ship be laden or in ballast, and if laden, the marks, numbers, and contents of every package or parcel of goods on board, and the particulars of such goods as are stowed loose, and where any such goods were laden, and where and to whom consigned, and where and what goods, if any, had been unladen during the voyage, and what part of the cargo, if any, is intended for exportation in such ship to parts beyond the seas, and what stores or stock remain on board such ship, as far as any of such particulars can be known to him; and further, the master shall answer all such questions concerning the ship and the cargo, and the crew and the voyage, as shall be demanded of him by such officer, and if any goods shall be unladen from any ship before such report be made, or if the master shall fail to make such report, or if after such report any package shall have been opened, or if he shall make an untrue report, or shall not truly answer the questions demanded of him, he shall be liable to a penalty not exceeding one hundred pounds.

Master to deliver manifest. And if required bill of lading, or copy.

22. The master of every ship shall, at the time of making such report, deliver to the collector the manifest of the cargo of such ship, when a manifest is required, and if required by the collector, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board; and in case of failure or refusal to produce such manifest, or to produce such bill of lading or copy, or if such manifest or bill of lading or copy shall be false, or if any bill of lading be uttered or produced by any master, and the goods expressed therein shall not have been bonâ fide shipped on board such ship, or if any bill of lading uttered or produced by any master shall not have been signed by him or other duly authorized person, or any such copy shall not have been received or made by him previously to his leaving the place where the goods expressed in such bill of lading or copy were shipped, then and in every such case such master shall be liable to forfeit a sum not exceeding one hundred pounds.

Penalty on failure.

Officers to board ships. To have free access to all parts. May seal or secure goods and open locks.

23. Officers of the customs may board any ship arriving at any port in this Island, and freely stay on board until all the goods laden therein shall have been duly delivered from the same, and such officers shall have free access to every part of the ship, with power to fasten down hatchways, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board such ship and if any place or any box or chest be locked; and the keys be withheld, such officers, if they be of a degree superior to tidewaiters or boatmen, may open any such place, box or chest in the best manner in their power, and if they be tide waiters or boatmen, or only of that degree, they shall send for their superior officer, who may open or cause to be opened any such place, box, or chest in the best manner in his power; and if any goods be found concealed on board any such ship they shall be forfeited; and if the officers shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal be wilfully opened, altered, or broken, before the delivery of such goods, or if any of such goods be secretly conveyed away, or if the hatchways after

Goods concealed forfeited. If seal, &c. broken, master to forfeit 100*l.*

being fastened down by the officer be opened, the master of such ship shall be liable to forfeit a sum not exceeding one hundred pounds.

Officers may be stationed in ships within the limits of any port.

24. Officers of the customs may be stationed on board any ship while within the limits of any port or place in this Island, and the master of every ship on board of which any officer is so stationed shall provide every such officer with suitable shelter and accommodation while on board, and in case of neglect or refusal so to do shall be liable to forfeit a sum not exceeding twenty pounds.

Penalty on master not having clearance, and if cargo do not correspond with ship's papers, or if goods sent out of vessel be not landed at the prescribed places.

25. If any ship shall arrive at any port in this Island without a clearance or other paper which it is usual to grant at the place or places from which such ship shall have come, the master shall be liable to a penalty not exceeding fifty pounds, or if any goods entered on any clearance, or other paper granted at the place from which any ship shall have come, shall not be found on board such ship, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the ship be not landed at the appointed places, the master shall be liable to a penalty not exceeding twenty pounds for every missing or deficient package of unknown value, and twice the amount of duty chargeable on the goods deficient and unaccounted for, if the duty can be ascertained, and the collector is authorised to require the payment of such fine and dues, and to decline the granting of a clearance outwards to the master of any vessel so liable, and refusing to pay such fines and dues: Provided always, that nothing herein contained shall be construed to prevent the collector from accepting explanation in the absence of clearance, or from permitting at his discretion the master of any ship to amend obvious errors, or to supply omissions from accidents or inadvertence by furnishing an amended report.

Proviso.

Goods unshipped from the importing vessel, or landed contrary to the regulations of the collector, forfeited.

Penalty on persons concerned.

26. No goods shall be unshipped or carried from the importing ship to any wharf or other place, except under such rules, regulations, and restrictions as the collector may from time to time direct and appoint; and all goods unshipped or carried contrary to such rules, regulations, and restrictions, or any of them, shall be forfeited, together with the boat or other means used for the conveyance of such goods; and every person knowingly concerned in the unshipping, or carrying of such goods, or into whose hands and possession such goods shall knowingly come, contrary to such rules, regulations and restrictions, shall forfeit and pay a sum not exceeding one hundred pounds, or treble the value of such goods, at the election of the said collector.

Collector to grant general sufferance for the landing of goods.

Goods landed to be taken to the Queen's warehouse.

Subsequent entry.

Goods not removed or warehoused within three clear days

27. No goods shall be unladen from any ship until a sufferance shall have been granted by the collector for the landing of the same, and no goods shall be landed except at the place appointed and expressed in such sufferance, and all goods so landed shall be taken and deposited in the Queen's warehouse, and within three clear days, exclusive of Sundays and holidays, from the date of landing, the importer shall make a full and complete entry thereof as herein-after provided, and shall either pay down all duties which shall be due and payable on such goods, or shall duly warehouse the said goods, or if the goods be free of duty shall so enter the same; and in default of such entry being made, and the said goods

being removed within three clear days as aforesaid after the same shall have been landed, such goods shall be liable to double rent for such time as they may remain in the warehouse thereafter; and all goods unladen, landed, or removed without such sufferance, or contrary to the directions in such sufferance, shall be forfeited.

from the date of landing subject to double rent. Goods landed contrary to or without sufferance forfeited.

28. The master of any ship from which goods or cargo shall be unladen before the hours of six in the morning or later than four o'clock in the afternoon, or on any day when the Custom House is closed for business, without permission in writing from the collector, shall be liable to a fine not exceeding fifty pounds, and the boat and other means used for the conveyance of such goods shall be liable to be forfeited.

No goods to be unladen except during the legal hours and days of business. Forfeiture.

29. Except in special cases sanctioned by the collector of customs, ten days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargoes of vessels not exceeding 150 tons burthen, and twenty-five days for vessels exceeding that burthen; and the said period shall be calculated from the date on which the vessel was admitted to entry and sufferance granted; and if any goods remain on board after the periods above fixed the collector may order such goods to be at once landed, and in case of neglect of such directions or of unnecessary delay or other unwarranted cause, the collector may authorise the landing of the cargo and its conveyance to the Queen's warehouse; and if the duties, warehouse rent, and charges of landing and freight due upon any goods so landed shall not be paid within one month after such landing, the same shall be sold and the produce thereof applied, first to the payment of freight and landing charges, next of duties and warehouse rent, and the overplus, if any, shall be paid to the owner of the goods if claimed within 12 months from the date of such sale, otherwise such surplus shall be brought to account as revenue: Provided that it shall be lawful for the collector to have any small package or parcel of goods landed and conveyed to the Queen's warehouse out of any ship whatever, although the periods above specified shall not have expired.

Cargo in ships of 150 tons to be landed within 10 days, and exceeding 150 tons within 25 days after arrival of such ship.

In default, collector may land and convey goods to Queen's warehouse.

Duties, &c. to be paid within 1 month, or goods to be sold.

30. No transhipment of any goods shall be made except by the special order of the collector or other proper officer, and after due entry of the goods, nor until an officer of the customs shall be deputed, at the expense of the party desiring this privilege, to superintend the removal of the goods from vessel to vessel; and if any goods are transhipped, or attempted to be removed from one vessel to another without special authority required as aforesaid, such goods, together with the boat and other means used for conveying the same, may be seized, and shall be liable to confiscation; but goods in transit by mail steamers and declared to be so by the master at the time of report may be transhipped without entry or bond, under superintendence of the proper officers, and at the expense of the parties concerned.

Transhipment of goods.

By mail steamers may take place without entry or bond.

31. With all goods unladen from any ship there shall be sent with each boat load a boat note, specifying the number of packages and the marks and numbers, or other description thereof, and such boat note shall be furnished and signed by an officer of the ship and if there be a custom house officer on board, the boat notes

Boat notes to accompany goods unladen from any ship.

shall be signed by such officer also; and the tindal and owner of the boat into which the goods have been laden shall be held responsible for the due landing and delivery at the Custom House of all the goods so laden, and specified in the boat note, and shall be liable to treble the duties due on any deficiency; and if any goods be found in a boat without a boat note, as above provided for, or in excess of the quantity specified in the boat note, or if the boat be found deviating from the proper course to the proper place of landing, the boat containing such goods may be detained by any officer of the customs, and unless the cause of deviation, or excess, be explained to the satisfaction of the collector, such boat and such goods shall be liable to forfeiture.

Ships stores.

32. The stores of every ship shall be subject to the same duties, and the same prohibitions, restrictions, regulations, fines, and penalties as goods and merchandize on importation, and may in like manner be entered for payment of proper duties or to be warehoused.

Goods to be landed and examined at the expense of importer.

33. The unshipping, carrying, and landing of all goods, and the bringing of the same to the proper place for examination or for weighing, and the putting of the same into and out of the scales, and the measuring, counting, unpacking, and repacking, and the opening and closing of the same, and removing to and placing them in the proper place of deposit shall be performed by and at the expense and risk of the importer, consignee, or agent.

Goods in warehouse must be properly stowed and re-piled.

34. All goods placed in the Queen's or other warehouses by any person shall be stowed by such person so as to afford easy access thereto, and in such parts or divisions of the warehouse and in such manner as the collector shall direct; and if the stowage be broken the goods shall be re-piled by the person breaking such stowage, in such manner as the collector may require.

Penalty for neglect or refusal.

Proviso.

Expenses to be paid to collector.

35. If any person placing such goods or breaking the stowage shall neglect or refuse to stow or re-pile them as herein-before directed, he shall for such neglect or refusal be guilty of an offence, and be liable to a fine not exceeding five pounds: Provided that it shall be lawful for the person so offending to avoid prosecution for the offence by tendering double the sum incurred in properly stowing or re-piling the goods; and if such sum be duly tendered before the institution of the prosecution no further proceedings shall be had against such person for the offence aforesaid. In case of prosecution, the magistrate shall direct so much of the fine as shall be sufficient to cover the expense of properly stowing and re-piling the goods to be paid to the collector.

Prohibitions and restrictions.

36. If any goods enumerated in the table of prohibitions and restrictions in Schedule C. to this Ordinance annexed, shall be imported or brought into this Island contrary to the prohibitions and restrictions contained in such table in respect thereof, such goods shall be forfeited, and shall be destroyed or disposed of as the Governor may direct: Provided that if any dangerous substance be imported or brought into this Island without the license of the Governor, or contrary to any of the regulations which may be made from time to time by the Governor, with the advice of the Executive Council, for the safe landing and deposit of such sub-

stance, the person importing or bringing the same to this Island, and any person concerned in such importation or bringing of the same, shall, in addition to the forfeiture above provided, be guilty of an offence and be liable to a fine not exceeding one hundred pounds.

Public property free.

37. All articles consigned to any officer of a public department in Ceylon, and being the property of the Crown, are to be passed duty free on the public officer to whom they are consigned delivering to the collector a list of the articles, and certifying at the foot thereof that they are *bonâ fide* public property: Provided always, that all such goods, wares, and merchandize, the property of the Crown, shall, in case of the sale thereof, after importation, be liable to and be charged with such and the same duties of customs as may by law be payable or charged on the like goods, wares, and merchandize, not being the property of the Crown, and the officer of the public department in whose charge such goods may be shall furnish the collector with the particulars of the sale thereof, and out of the proceeds of the same pay to the said collector the duties which may be due thereon.

Proviso.

Abatement of duty on damaged goods.

38. No claim for any abatement of duty in respect of any goods imported into Ceylon shall be allowed on account of damage, unless such claim shall be made on the first examination thereof, and in such form and manner as the collector shall direct, nor unless it shall be proved to the satisfaction of the collector or other officer of the customs that such damage was sustained after such goods had been shipped in the importing ship and before the landing thereof in Ceylon, and the damage sustained by such goods shall be assessed by the officers of the customs, if competent thereto, but if not, or if the importer be not satisfied as to the amount allowed for such damage, the collector may call upon two impartial merchants to examine the goods, and certify to what extent in their judgment the same are lessened in value by such damage, whereupon the officers of the customs may make an abatement not exceeding three fourths of the duty originally chargeable thereon; but no allowance shall be made for damage on spirits, sugar, cocoa, tea, coffee, pepper, tobacco, currants, raisins, figs, wine, beer, grain, rice, wheat, gram, peas, paddy, and other grain, fish, bacon, butter, cheese, hams, beef, and pork, flour, or other articles of food so damaged as to be unwholesome and unfit for food.

Not to exceed $\frac{3}{4}$ of duty, and not to apply to certain goods.

Importer to deliver bill of entry.

39. The person entering any goods inwards, whether for payment of duty, or to be warehoused, or for payment of duty upon the taking out of the warehouse, or whether such goods be free of duty, shall deliver to the collector a bill of entry of such goods fairly written in words at length, expressing the name of the ship, and of the master of the ship in which the goods were imported, and of the place from which they were brought, and the description and situation of the warehouse, if they are to be warehoused, and the name of the person in whose name the goods are to be entered, and the quantity, value, and description of the goods, and the number and denomination or description of the respective packages containing the goods, and in the margin of such bill, shall delineate the respective marks and numbers of such packages, and shall pay down any duties which may be payable upon the goods

Duplicate.

mentioned in such entry; and such person shall also deliver at the same time two or more duplicates of such bill, in which bill all sums and numbers may be expressed in figures, and the particulars to be contained in such bill shall be legibly written and arranged in such form and manner, and the number of such duplicates shall be such as the collector shall require, and such bill of entry when signed by the collector, or person authorized by him, and transmitted to the proper officer, shall be the warrant to him for the examination and delivery of such goods; but if such goods shall not agree with the particulars in the bill of entry the same shall be forfeited, and such forfeiture shall include all other goods which shall be entered or packed with them as well as the packages in which they are contained.

Entry by bill of sight.

40. The importer of any goods or his agent, if unable, for want of full information, to make perfect entry of such goods, may on making and subscribing a declaration to that effect before the collector, or other proper officer of customs, make an entry by bill of sight for the packages or parcels of such goods, in order that the same may be seen and examined by the proper officer, and within three days after the goods shall have been so examined the importer shall make a perfect entry thereof, either for payment of duty or for warehousing, as the case may be; but if the importer shall neglect to pass such perfect entry within one month after the date of the examination, such goods shall be sold for the payment of the duties, warehouse rent, and other charges due thereon, and the overplus, if any, shall be paid to the proprietor of the goods.

Perfect entry to be made within three days.

In default goods to be sold after one month.

Entry to agree with manifest, &c.

41. No entry nor any warrant for the delivery of any goods, or for the taking of any goods out of any warehouse, shall be valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, and in the manifest, where a manifest is required, and in the certificate or document, where any is required, by which the importation or entry of such goods is authorized, nor unless the goods shall have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported, either to be used in the Island, or to be warehoused for exportation only; and any goods taken or delivered out of any ship, or out of any warehouse, or for the delivery of which, or for any order for the delivery of which, from any warehouse, demand shall have been made, not having been duly entered, shall be forfeited.

Goods not duly entered, forfeited.

Goods ad valorem.

42. In all cases when the duties imposed upon the importation of articles are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof, the respective value of each of such articles shall be stated in the entry, together with the description and quantity of the same, and such respective value shall be affirmed by the declaration of the importer of such articles, or his known agent, in manner and form following; (that is to say,)

Declaration of value.

I, *A.B.*, (*place of abode*) do hereby declare that I am (the importer, *or* authorized by the importer) of the goods contained in this entry, and that I enter the same (*stating which, if parts only*) at the respective sum or value mentioned opposite to the said articles, and amounting together to the sum of £ .

Witness my hand the day of .

A.B.

Form of declaration.

43. If upon examination of the goods so entered it shall appear to the officers of the customs that the same are not valued according to the true wholesale market value thereof, it shall be lawful for such officers to detain such goods, and within two days from the day on which such goods shall be finally examined for duty by the proper officers to take such goods for the use of the Crown; and the collector shall, from the daily collection of the port, or by an advance from the Treasury, cause the amount of such valuation, together with the duties paid upon such goods, to be paid to the importer or proprietor of such goods in full satisfaction for the same, and shall dispose of such goods for the benefit of the Crown, and if the produce of such sale shall exceed the sums so paid, and all charges incurred by the Crown, one moiety of such surplus shall be paid to a separate fund at the disposal of the Governor, and be distributed by him at such periods and in such proportions to or amongst such meritorious officers as the principal collector shall submit as most deserving, and the other moiety shall be accounted for, paid, and carried to account as duties of customs.

Goods undervalued to be detained, and sold for the benefit of the Crown.

VII.—*Entry of Goods re-imported.*

44. All goods, the produce or manufacture of Ceylon, re-imported, shall be deemed and taken to be, and be entered as foreign produce or manufacture, and shall be liable to the same duties, rules, regulations, and restrictions as such goods of foreign produce and manufacture would be liable to on importation thereof, unless the same shall be re-imported within two years after the exportation thereof, and unless it be proved to the satisfaction of the proper officers that the property in such goods has continued and still remains in the person by whom or on whose account the same have been exported, the same may be entered as goods, the produce or manufacture of Ceylon, by bill of store containing such particulars, and in such form and manner as the collector may direct.

Entry of re-imported goods by bill of store.

45. The person in whose name any goods re-imported were entered for exportation shall deliver to the proper officer of customs an exact account signed by him of the particulars of such goods, referring to the entry and clearance outwards, and to the return inwards of the same, with the marks and numbers of the packages, both inwards and outwards; and thereupon the officer finding that such goods had been legally exported, shall grant a bill of store for the same; and if the person in whose name such goods were entered for exportation was not the proprietor thereof, but his agent, he shall declare in such bill of store the name if the person by whom he was employed as such agent; and if the person

Bill of store may be issued by the proper officer.

Agent to declare name of employer.

Consignee to declare who is proprietor.

Proprietor to declare to identity and property unchanged.

The entry by bill of store to be granted.

to whom such returned goods are consigned shall not be such proprietor and exporter, he shall make and subscribe a declaration in such bill of store of the name of the person for whose use such goods have been consigned to him, and the real proprietor ascertained to be such shall make and subscribe a declaration upon such bill of store to the identity of the goods so exported, and so returned; and that he was at the time of exportation and of re-importation the proprietor of such goods; and that the same had not during such time been sold or disposed of to any other person, and such declaration shall be made before the collector, and thereupon the collector shall admit such goods to entry by bill of store, and grant his warrant accordingly.

VIII.—*Removal of Goods by Sea or Inland Carriage.*

Goods may be removed by land, or from one sea port to another in the Island.

46. Goods may be removed or carried from one port of this Island to any other port therein by sea or inland carriage previous to payment of duties, on the owner or his agent duly entering the same, and giving bond to the satisfaction of the collector for the due delivery thereof at the custom house of the port to which such goods are to be removed; and if the seals of office attached to such packages be broken, or if the contents shall not be found to agree with the particulars of entry and advice from the port of removal, such packages, with their contents, shall be forfeited, and the bond given for the safe and due delivery of the goods enforced. The Governor may from time to time direct and appoint rules, regulations, and restrictions in respect to the said removal of goods, and all goods carried or removed contrary thereto shall be forfeited.

IX.—*Regulation Outwards.*

Ship to be entered and goods cleared before shipment.

47. And whereas it is expedient that the officers of customs should have full cognizance of all ships departing from any port or place in this Island, and of all goods taken out of this Island: It is enacted, that the master of every ship shall, before any goods be laden therein, deliver to the collector a certificate from the proper officer of the due landing of the inward cargo of such ship, of her last voyage, and also an entry outwards under his hand, stating her name, country, and tonnage, the port of registry, the name of the master and of the owners, and the number of the crew and passengers, and the destination of such ship. If any goods be laden on board any ship before such entry be made, the master of such ship shall forfeit a sum not exceeding fifty pounds.

Periods and hours of shipment of goods.

48. No goods shall be laden, put off, or waterborne to be shipped for exportation or coastwise, or shipped on board any vessel, except on days, not being Sundays or holidays, nor before six in the morning, nor later than four in the afternoon, nor from any place except some legal quay or other duly appointed place nor without the presence or authority of the proper officer of customs, nor before due entry outwards of such ship, nor before such goods shall have been duly entered and duly cleared for shipment by such officer, who may open all packages and fully examine all goods brought and intended for shipment; and all

goods laden, waterborne, or shipped contrary to such regulations, or shipped on board any vessel not duly entered outwards, may be re-landed by the proper officers of customs, and shall be forfeited, together with the means of conveyance.

Stiffening order.

49. When it shall become necessary to lade heavy goods on board any ship before the whole of the inward cargo is discharged, the collector may, previous to the entry outwards of the ship, issue a stiffening order, sanctioning the shipment of the goods.

Stores.

50. On due requisition by the master, the collector may allow for the use of such ship such stores as may appear necessary according to the voyage upon which she is about to depart, but no articles taken on board any ship shall be deemed to be stores unless duly shipped as such by entry or by permit of the collector or other proper officer.

Collector may grant general sufferance for the shipping of goods.

51. On the entry outwards of any ship, the collector shall grant a general sufferance for the shipment and lading of any sort of goods, the produce or manufacture of this Island, except such as shall be expressly excepted therein: Provided always, that before the clearing outwards of such ship, the exporter of any goods on board the same shall deliver to the collector an entry, containing an accurate specification of the quantity, quality, and value of such goods; and if such declaration be false, or if he fail to make such entry before the content of the ship is delivered in by the master, he shall forfeit a sum not exceeding twenty pounds; and the collector may refuse to certify such shipment on the clearance of such ship.

Subsequent entry and penalty on failure.

Master to deliver contents,

52. Before any ship, whether laden or in ballast, shall be cleared outwards at any port in this Island, the master shall deliver a content of such ship, setting forth the name and tonnage of such ship, and the place or places of her destination, and the name of the master, the number of passengers, also, if laden, an account of the goods shipped on board, and of the packages containing such goods, and of the marks and numbers upon such packages, and a like account of the goods on board, if any, which had been reported inwards for exportation in such ship, so far as any of such particulars can be known by him, and the master of the ship shall furnish such content in duplicate, and shall make and sign a declaration before the collector to the truth of such content, and shall also answer such questions concerning the ship, the cargo, and the intended voyage, as the collector shall demand of him, and, if required by the collector, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board, and thereupon the collector or other proper officer shall make out and give to the master a certificate of the clearance of such ship for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, he shall forfeit a sum not exceeding one hundred pounds.

answer questions, and produce bills of lading.

Certificate of clearance.

Officers may board vessels after clearance

53. It shall be lawful for the officers of the customs to go on board any ship before and after clearance outwards within the

limits of any port in this Island, or within two leagues of the coast thereof, and to demand the certificate of clearance and the victualling bill, and if there be any goods on board subject to duty and not duly entered outwards, such goods shall be re-landed and forfeited; and if any goods contained in such clearance or victualling bill be not on board, the master shall forfeit a sum not exceeding twenty pounds for every package or parcel of goods contained in such clearance or victualling bill and not on board.

X.—*Trade by Vessels of less than* 15 *tons burthen.*

No goods to be imported or exported in vessels of less than 15 tons.

Proviso. Unless by proclamation of the Governor.

54. No goods shall be imported into or exported from this Island from or to parts beyond the seas in any ship of less burthen than fifteen tons, and any goods so imported or exported shall be forfeited: Provided that it shall be lawful for the Governor, by any proclamation to be by him issued and published in the "Government Gazette," to allow ships or boats under fifteen tons burthen to import or export any goods from or to parts beyond the seas, at such ports or places, and during such periods or times, and in such manner as may be deemed expedient, upon any pearl fishery or other occasion appearing to require the same.

XI.—*Regulations Coastwise.*

Coastwise trade.

55. All ships conveying goods coastwise, and all goods imported or exported coastwise, shall be liable to the like cognizance of the customs, and be subject to the same prohibitions, restrictions, regulations, fines, forfeitures, and penalties as goods imported from or exported to parts beyond the seas, and it shall be lawful for the Governor to make and appoint such other regulations, by any proclamation to be by him issued and published in the "Government Gazette," for the carrying coastwise of any goods, as to him shall appear expedient, and such proclamation shall have the same effect in law as if it had formed part of this Ordinance.

What goods shall be carried coastwise.

56. No goods shall be carried in any coasting ship except such as shall be laden to be so carried at some port or place in this Island, and if any goods shall be taken into or put out of any coasting ship at sea, or over the sea, or if any coasting ship shall touch at any place over the sea, or deviate from her voyage, unless forced by unavoidable circumstances, or if the master of any coasting ship which shall have touched at any place over the seas shall not declare the same in writing under his hand to the collector at the port in this Island where such ship shall afterwards first arrive, the master of such ship shall be liable to forfeit a sum not exceeding one hundred pounds.

XII.—*Warehousing of Goods.*

Power to appoint warehousing ports.

57. The Governor may, by proclamation from time to time, appoint the ports in this Island which shall be warehousing ports for the purposes of this Ordinance, and the collectors of such ports may from time to time, by notice in writing under their hands, approve and appoint warehouses or places of security in such ports, and direct in what different parts or divisions of such warehouse or places, and in what manner, and under what regulations

Appointment of warehouses.

any and what sort of goods may be warehoused, kept, and secured without payment of duty upon the first entry thereof, and may also direct in what cases, and with what sureties, and to what amount, security by bond shall be required in respect of any warehouse so approved or appointed as aforesaid, or in respect of any goods deposited therein, or for the security of the duties due thereon ; and such collectors may by a like notice revoke or alter any such appointments or declarations; but every such notice of the appointment of warehouses, or of the revoking thereof, shall be subject to the Governor's approval, and shall be published in such manner as he may direct.

Warehouse keeper to give security.

58. The proprietor or occupier of every warehouse approved of and appointed as aforesaid, or someone on his behalf, shall give or procure to be given security by bond with two sufficient sureties, or such other security as the collector may approve, for the payment of the full duties of importation on or for the due entry for exportation of all such goods as shall at any time be warehoused therein, and no goods shall be warehoused in any such warehouse until such security shall have been given.

Importer under certain restrictions may warehouse goods.

59. The importer of any goods into any warehousing port may warehouse the same in warehouses appointed as aforesaid, or in any public warehouse, without payment of any duty on the first entry thereof, subject to the regulations, restrictions, and conditions herein-after mentioned, and from time to time directed by the collector; but nothing herein contained shall be construed to render it incumbent on Government to provide accommodation for the warehousing of goods, or for the deposit of salt, which shall be warehoused only in private warehouses.

Entry for the warehouse.

60. The importer of any goods intended to be warehoused without payment of duty on the first entry thereof, or his agent, shall deliver to the collector a bill of entry of such goods in the same manner and form and containing the same particulars as are herein-before required on the entry of goods to be delivered for home use, as far as the same shall be applicable, and the name and description of the warehouse in which such goods are intended to be warehoused, and the name of the person in whose name they are to be so warehoused, and such bill of entry when signed by the collector or other authorized officer shall be transmitted to the proper officer of customs and be the warrant for the examination and due warehousing of such goods, and all goods not duly entered shall be liable to forfeiture; but the collector may, if he see fit in any case so to do, require bond to be given by the importer or consignee in treble the amount of duties due thereon for the safe deposit and due clearance of such goods.

Particulars.

Warrant for warehousing.

Bond upon entry of goods for the warehouse.

Goods warehoused to be marked and numbered, &c.

61. All goods so entered to be warehoused shall before deposit in any warehouse be properly marked and numbered by the importer in legible characters with the initials of the owner, importer, or consignee, or other distinguishing marks, and the goods shall be stowed so as to afford easy access thereto, and to every package or parcel, in such parts or divisions of the warehouse, and in such manner, as the collector or the proper officer shall direct, and if the stowage be broken the goods shall be re-piled by the person breaking such stowage in such manner as

Stowage of goods warehoused.

the collector may require, and the neglect or refusal to stow or repile them as herein-before directed shall subject the occupier of the warehouse, or the person so offending, to a fine not exceeding five pounds. The warehouses shall be locked and secured in such manner and shall be opened from ten o'clock in the forenoon to four o'clock in the afternoon daily, Sundays and holidays excepted, and visited only at such times and in the presence of such officers, and under such rules and regulations, as the collector shall direct; and all such goods shall, after being landed upon importation, be carried to the warehouse, or shall after being taken out of the warehouse for exportation or for stores be carried to be shipped under such rules and regulations as the collector shall direct.

Penalty.

Locking and opening warehouse.

Carrying goods to and from warehouse.

62. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, they shall be forfeited together with the goods with which they shall have been so packed, and the packages in which they shall have been concealed.

Goods not duly warehoused or fraudulently concealed or removed, forfeited.

63. If the warehouse keeper of any warehouse shall not produce to any authorized officer of customs on his request any goods deposited in such warehouse which shall not have been duly cleared and delivered therefrom, such warehouse keeper shall for every such neglect forfeit the sum of five pounds in respect of every package or parcel not so produced.

Warehouse keeper neglecting to produce goods deposited when required to forfeit 5*l.*

64. If the warehouse keeper of any warehouse, or the importer or proprietor of any goods warehoused therein, or any person in his employ, shall clandestinely open the warehouse, or gain access to the goods except in the presence of the proper officer of customs acting in the execution of his duty, such warehouse keeper, importer, or proprietor shall for every such offence forfeit a sum not exceeding one hundred pounds.

Importer or proprietor clandestinely gaining access to warehoused goods, to forfeit 100*l.*

65. If any goods shall be taken out of any warehouse without due entry of the same with the proper officer of customs, the warehouse keeper of such warehouse shall forthwith pay the duties due upon such goods, and every person so taking out any goods without payment of duty, or who shall aid, assist, or be concerned therein, and every person who shall wilfully destroy or embezzle any goods duly warehoused, shall be deemed guilty of a misdemeanor, and shall upon conviction suffer the punishment by law inflicted in cases of misdemeanor; but if such person shall be an officer of customs not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or proprietor of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such waste, spoil, or embezzlement shall, with the sanction of the Governor, be repaid or made good to such importer, consignee, or proprietor by the collector of customs.

Duty on goods taken out of warehouse without entry to be paid by warehouse keeper.

Persons taking out of or destroying goods in warehouse to be deemed guilty of a misdemeanor.

Importer or consignee defrauded by officers to be indemnified.

66. If any goods entered to be warehoused, warehoused, or entered to be delivered from the warehouse, shall be lost, damaged, or destroyed by unavoidable accident, either in receiving into the

Collector may remit duties on warehoused

warehouse, or in the warehouse, the collector may remit the duties due thereon.

goods lost or destroyed.

67. Upon the entry and landing of any goods to be warehoused the proper officer of customs shall take a particular account of such goods at the quay, wharf, or warehouse at which they shall be so landed, and shall enter in a book prepared for that purpose the name of the importing ship, and of the person in whose name they are entered, the marks, numbers, and contents of every such package, the description of the goods, and the warehouse in which the same shall be deposited, and when the same shall have been so deposited with the authority of such officer, he shall certify that the entry and warehousing of such goods is complete, and such goods shall from that time be considered goods warehoused; and if any such goods shall be delivered, withheld, or removed from the proper place of examination before the same shall have been duly examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused, and shall be liable to be forfeited.

Landing account to be taken of goods for the warehouse.

Contents to be marked on packages and in landing book.

68. The account of goods so taken as aforesaid shall be the account upon which the duties payable upon such goods shall be ascertained, when the same shall ultimately come to be delivered upon due entry for that purpose, and the same shall be entered and the full duties due thereon be paid, according to the quantity taken in such account, without any abatement for any deficiency except as herein-after provided.

Goods to be entered and duties paid according to landing account.

69. All warehoused goods shall be cleared either for home use or exportation within two years from the date on which the same were warehoused, or within such further period as the collector shall allow, in which case the goods shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing, and the quantity found to exist on such examination, together with the warehouse rent and necessary expenses attendant thereon, shall, subject to such allowances as are by law permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof, in the same manner as on first importation.

Goods to be cleared within two years.

Proviso.

Duties to be paid upon deficiencies, &c.

70. If any warehoused goods shall not be duly cleared, exported, or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid shall not be paid at the expiration of two years from the previous entry and warehousing thereof, or within such further period as shall be permitted by the collector, the same, if worth the duty due thereon, shall after one month's notice to the warehouse keeper, importer, or consignee, be sold either for home use or exportation with or without the consent of the warehouse keeper, importer, or consignee; and the proceeds thereof shall be applied to the payment of the duties, warehouse rent, and charges, and the surplus, if any, shall be paid to the owner or proprietor of such goods, if known; but if such owner or proprietor cannot be found, such surplus shall be carried to the account of Government to abide the claim of such owner or proprietor on his appearing and making good his claim thereto within

Goods not cleared or re-warehoused or duties paid on deficiencies after two years, to be sold.

Proceeds of sale how to be applied.

Goods not worth the duty may be exported or destroyed.

one year from the date of sale; and if such goods shall not be worth the duty, then the same after such one month's notice as aforesaid may be exported or may be destroyed, with or without the concurrence of the owner thereof, or the warehouse keeper of the warehouse in which the same were so warehoused, as the collector shall see fit; and the duties due upon any deficiency thereof not allowed by law shall, if required by the collector, be forthwith paid by the warehouse keeper.

Goods in warehouse may be re-packed.

71. With the sanction of the collector, and after such notice given by the respective importers or proprietors, and at such times and under such regulations and restrictions as the collector shall from time to time require and direct, it shall be lawful in the warehouse to sort, separate, pack, and re-pack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof; provided that such goods be re-packed in the packages in which they were imported, or in such other packages as the collector shall permit; and also to draw off any wine or any spirits into reputed quart or pint bottles for exportation only; and also to fill up any cask of wine, beer, or spirits from any other casks of the same, respectively secured in the same warehouse, and also to take such moderate samples of goods as may be allowed by the collector with or without entry, and with or without payment of duty, except as the same may eventually become payable as on a deficiency of the original quantity; and the duty on the surplus, if any, of such goods as may be delivered for home use shall be immediately paid, and such surplus shall thereupon be delivered for home use accordingly; and after such goods have been so separated and re-packed in proper or approved packages, the collector may, at the request of the importer or proprietor of such goods, cause or permit any refuse, damage, or surplus goods occasioned by such separation or re-packing, or at the like requests, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

Damaged parts may be destroyed.

Entry for exportation or home use.

72. No warehoused goods shall be taken or delivered from the warehouse, except upon due entry, and under the care of the proper officers, for exportation or to be shipped as stores, or upon due entry and payment of the full duties payable thereon for home use.

Bill of entry for warehoused goods delivered for home use.

73. Upon the entry of any goods to be cleared from the warehouse for home use, the person entering such goods shall deliver a bill of entry, and duplicates thereof, in like manner and form and containing the same particulars as herein-before required on the entry of goods to be delivered for home use on the landing thereof, as far as the same may be applicable, and shall at the same time pay down to the proper officer of customs the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the landing waiter or other proper officer on the first entry and landing thereof, except as to the following goods, viz., rice, wine, beer, spirits, and sugar, the duties whereon when cleared from the warehouse for home use shall be charged upon the quantity of such goods ascertained by weight, measure,

Duties to be paid according to landing account, except in certain cases when duties are to be charged

or gauge, at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure, or gauge ascertained on landing and first examination of any such last-mentioned goods and that ascertained at the time of actual delivery has been caused by illegal or improper means, in which case the proper officer of customs shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.

on ascertained quantity on delivery, unless deficiency has been caused by improper means.

74. When any deficiency occurs in goods chargeable to pay duty according to the value thereof, the value thereof shall be estimated as nearly as conveniently may be by the officers of customs according to the market price of the like sort of goods.

Value of goods for allowance on deficiencies to be estimated at market price.

75. No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation, unless the officers of customs have reasonable ground to suppose that such deficiency, or any part thereof, has arisen from illegal abstraction.

Deficiencies on goods exported not to be charged with duty unless fraudulent.

76. Before any warehoused goods subject to duties of customs shall be permitted to be exported, the exporter or his agent shall give security by bond to be approved of by the collector in treble the amount of duty payable by law upon the importation of such goods, with one sufficient surety, if required by the collector, that such goods shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards, or otherwise accounted for, to the satisfaction of the collector, and shall, if required, produce a certificate, under the hands of the proper officers at the port of landing, of the due landing of the goods at such port as aforesaid.

On entry outward bond for due shipment and landing shall be given.

77. The collector may, in such instances as he shall deem advisable, accept, in lieu of separate bonds as aforesaid, from the known resident exporters and shippers of goods general bonds with one or two sufficient securities or such other security as the collector may approve of, to such an amount as shall be necessary for the due shipment, exportation, and landing at the place for which they are entered outwards of all warehoused goods exported by such persons, but such general bonds shall only be in force for two years, and may be revoked and cancelled whenever the collector shall see fit.

General bond for warehoused goods exported.

78. It shall be lawful for the Governor, after notice published in the "Government Gazette," to direct that after the expiration of 12 months from the date of such notice no goods or merchandise shall be warehoused in any public warehouse or premises, and to convert all or any of such warehouses or premises in use as bonding warehouses at the time of such notice to other purposes of customs accommodation, and any goods not cleared from such public warehouse by removal to other approved bonding warehouse, or by entry for home consumption or exportation, at the expiration of such notice aforesaid, shall be sold by the collector in like manner as is provided for the sale of unclaimed goods.

Governor may close bonded warehouse.

XIII.—*General Regulations.*

Special regulations for steamers.

79. Whereas it is desirable to facilitate the despatch of steamers, it shall be lawful for the Governor, with the advice of the Executive Council, to make special regulations from time to time relating to the entry inwards and outwards of such steamers, and the landing, shipping, and transhipping of goods by them, and such regulations, when duly published, shall have the same effect in law as if they formed part of this Ordinance.

Goods lodged in Queen's warehouse liable to claims for freight, &c.

80. All goods or merchandise which shall be lodged in any Queen's warehouse under the provisions of this Ordinance, not being goods seized as forfeited to Her Majesty, shall, when landed, continue and be subject and liable to such and the same claim for freight and general average in favour of the master, owner, or agent of the respective ship, or of any other person interested in the freight or general average from which such goods or merchandise shall have been so landed, as such goods or merchandise respectively were subject and liable to before the landing thereof.

Collector required to detain goods for freight, &c.

The collector is hereby authorized and required, upon due notice in writing given to him by such master, owner, agent, or other persons as aforesaid, specifying the particulars of the goods, and the amount of freight or general average to which they are liable, to detain and keep the whole or such portions of such goods and merchandise, not being seized as forfeited to Her Majesty, in the Queen's warehouse as will cover the amount of freight, general average, and the landing charges due, until proof of payment of the same, or until a deposit shall have been made by the owner or consignee of such goods or merchandise equal in amount to the claim or demand made by the master, owner, or agent of the respective ship, or other persons as aforesaid, for or on account of freight, general average, and charges as aforesaid, upon such goods or merchandise.

Collector to receive deposit for freight, &c.

The collector is hereby authorized and directed to receive and hold in trust such deposit until the claim or demand for freight, general average, and charges as aforesaid upon such goods shall have been satisfied or withdrawn, upon proof of which and demand made by the person by whom the said deposit shall have been made, the said deposit shall be returned by the collector; but if settlement of such claim for freight, general average, and charges as aforesaid shall not be made, or the claim withdrawn by parties making such deposit within ninety days from the date of deposit, it shall be lawful for the collector to pay to the master, owner, agent, or other person as aforesaid the amount so deposited in liquidation of the claim made for freight, general average, and charges as aforesaid at the time of the detention of the goods liable thereto.

Claim to be settled within ninety days.

Notice of action may be given.

Collector to pay deposit into court.

If the person making such deposit as aforesaid shall within thirty days serve on the collector notice that he has brought his action to recover the money the liability to which is disputed, the collector shall immediately pay into court, as a deposit in the said action, the sum the liability to pay which is disputed.

Collector may pay portion not disputed.

If any portion of the amount deposited with the collector is admitted by such notice to be payable to the master, owner, agent,

or other person as aforesaid, the collector shall pay such portion; the court shall receive the sum deposited by the collector, to be paid over to the party who shall be declared ultimately entitled to the same.

Court to receive and dispose of deposit.

The collector shall not be bound to see to the validity of any lien claimed by any master, owner, agent, or other person as aforesaid.

Collector not bound to see as to validity of any lien.

If any goods or merchandise deposited as aforesaid be left in any custom house or Queen's warehouse for a longer period than ninety days from the date of landing, such goods shall, after public advertisement, be sold by public auction either for home use or exportation, and the proceeds thereof applied first to the payment of the duties due thereon, the warehouse rent, and expenses of sale, then to the payment of the freight, general average, and charges claimed as aforesaid, and the overplus, if any, shall be paid to the proprietor of the goods; but if there be no such proprietor such overplus shall be paid into the Treasury, and if not claimed within one year from the date of the sale of such goods such overplus shall be brought to account as revenue: Provided that goods of a perishable nature or in a damaged condition may, after public advertisement, be sold forthwith, and if not saleable may be destroyed, and neither the proprietor nor claimant of the freight, general average, and charges as aforesaid, due on any goods sold or destroyed as aforesaid, shall have any claim on the collector for or on account thereof. The collector shall not be required to detain for freight, general average, or charges as aforesaid, horses, cattle, or other live stock, unless proper provision be made by the person detaining the same for the feeding, care, and housing of such live stock.

Power to sell goods not cleared in 90 days.

Perishable goods may be sold at once.

Collector not required to detain live stock.

81. All bonds relating to the customs required to be given in respect of goods or ships shall be taken by the collector for the use of Her Majesty, and after the expiration of three years from the date thereof, or from the time, if any, limited therein for the performance of the condition thereof, every such bond upon which no prosecution or suit shall have been commenced shall be void, and may be cancelled and destroyed.

Bonds to be taken by collector.

82. If any goods, packages, or parcels shall be landed, taken, or passed out of any ship, or out of any warehouse, not having been duly entered, the same shall be forfeited: Provided always, that no entry shall be required in respect of the baggage of passengers, which may be landed, examined, and delivered under such regulations as the collector may direct; but if any prohibited or uncustomed goods shall be found concealed therein, either before or after landing, the same shall be forfeited, together with the contents of the packages and the packages containing the same.

Goods concealed in packages or delivered without entry, forfeited.

Passengers baggage.

83. All goods lodged or deposited in any Queen's warehouse or other place of deposit provided by Government shall be so deposited at the risk of the owner, importer, or consignee, who shall have no claim on the Crown to compensation for loss by fire, theft, damage, or other cause, except such loss be proved by the prosecution to conviction (within one year from the date at which such wilful embezzling, waste, spoil, or destruction is alleged to

Goods in any warehouse to be at risk of the owner.

have taken place) of the offending party to have been caused by the wilful embezzlement, waste, spoil, or destruction of any officer of customs, and in which case no duty shall be leviable on such goods.

Power to sell goods not cleared within three months.

84. All goods left in any Queen's warehouse or on the customs premises for a longer period than three months, unless permitted to remain by the special permission of the collector, shall, after public advertisement, be sold by auction to answer the duties, warehouse rent, or other charges due thereon, and any overplus shall be paid, if claimed within twelve months from the date of sale, to the owner of such goods, who shall have no further claim touching the same, but if there be no claimant such overplus shall be brought to account as revenue: Provided that any goods of a perishable nature which shall be left in the warehouse or customs premises, or in any bonded warehouse uncleared, may be sold forthwith, or if not saleable may be destroyed, and the proprietor of any goods sold or destroyed as aforesaid shall have no further claim for or on account thereof.

Proviso.

Government may appoint ports and quays, and alter or annul the same.

85. The Governor may by proclamation appoint any place to be a haven, creek, port, or warehousing port in this Colony, and declare the limits thereof, and appoint proper places within the same to be legal quays for the lading and unlading of goods, and declare the bounds and extent of any such quays, or annul the limits of any port, haven, creek, or legal quay already appointed, or to be hereafter appointed, and declare the same to be no longer a port, warehousing port, haven, creek, or legal quay; and all ports, warehousing ports, havens, and creeks, and the respective limits thereof, and all legal quays appointed, set out, and existing as such at the time of the passing of this Ordinance shall continue to be such ports, havens, creeks, and quays until annulled or altered as aforesaid.

Existing ports to continue.

Collector to appoint wharves.

86. The collector may from time to time, by any order under his hand, and under such restrictions and regulations as he shall see fit, appoint proper places for the lading and unlading of goods.

Officers may refuse master of ship, unless his name is endorsed on registry.

87. The officers of customs may refuse to allow any person to do any act as master of any British ship, unless his name is inserted in or endorsed upon the certificate of registry of such ship as being the master thereof.

Collector to grant licenses to custom house agents

88. The collector may and he is hereby authorized to grant licenses in such form and manner and to such persons as he shall think fit, to act as agents for transacting business which shall relate to the entry or clearance of any ship, or of any goods, or of any baggage, in any of the ports or places in this Island, and only persons so appointed shall act as agents as aforesaid, and the collector may cancel or revoke for fraud or misconduct any license so granted to any such person: Provided that such license shall not be required by the clerk, servant, or known and accredited agent of any person or mercantile firms for transacting business at the custom house, on account of such person or firm; but whenever any person shall make any application to any officer of the customs to transact any business on behalf of any other person, it shall be lawful for such officer to require the person so applying to produce a written

Parties applying to transact business for others, to produce written authority for so doing.

authority from the person on whose behalf such application shall be made, and in default of the production of such authority to refuse to transact such business.

89. No ship or boat shall be hauled on shore at any public wharf, quay, beach, or landing place in this Colony, for the purpose of repairs or otherwise, without permission from the collector, and no boat shall remain alongside of any wharf or landing place after the owner or person in charge shall be directed to remove the same by the proper officer of customs; and any person hauling any ship or boat on shore without such permission as aforesaid, and the owner or person in charge of any boat refusing or neglecting to remove the same when ordered as aforesaid, shall be liable to a fine not exceeding five pounds, and such ship or boat may be detained by the collector until payment of the fine imposed.

No vessel to be hauled on shore without permission.

Boat to be removed from wharf when directed.

Penalty.

90. If any timber or other heavy or bulky articles be left on any public quay, jetty, wharf, beach, or landing place in this Colony for more than one day, so as to interrupt or hinder the free use thereof, it shall be lawful for the collector, after twelve hours notice in writing given to the owner thereof or to his agent, to remove the same; and such owner shall be liable to a penalty not exceeding five pounds, and such goods shall not be delivered up to the owner thereof until after payment of the said penalty, together with the charges attending the removal of the same; and if such goods shall not be removed within six days after notice given as aforesaid, it shall be lawful for the collector to sell the same by public auction, and to deduct from the proceeds the amount of such penalty, and all charges which may have been incurred on account of such goods, and the surplus, if any, shall be paid to the owner.

No timber, &c. to be left on wharf for more than one day.

91. It shall be lawful for the officers of customs to go on board any ship in any port or place in this Colony, or hovering within one league of the coast thereof, and to rummage and search all parts of such ship for prohibited and uncustomed goods, and freely to stay on board such ship so long as she shall remain in such port or place or within such distance; and if any such ship shall be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for the officers of customs to bring such ship into port, and to search and examine her cargo, and to examine the master touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this Island, and if the master shall not truly answer the questions which shall be demanded of him on such examination, he shall forfeit a sum not exceeding one hundred pounds.

Officers may board ships hovering on the coasts,

and bring them into port.

Penalty.

92. If any person shall make and subscribe any declaration, certificate, or other instrument required by this Ordinance to be verified by signature only, the same being false in any particular; or if any person shall make or sign any declaration made for the consideration of the collector or the proper officer of customs on any application presented to him, the same being untrue in any particular; or if any person required by this or any other Ordinance relating to the customs to answer questions put to him by the

Making false declaration.

Signing false documents and untruly answering questions.

officers of customs, shall not truly answer such questions; or if any person shall counterfeit, falsify, or wilfully use when counterfeited or falsified, any document required by this or any Ordinance relating to the customs, or by or under the directions of the collector of customs, or any instrument used in the transaction of any business or matter relating to the customs, or shall fraudulently alter any document or instrument, or counterfeit the stamp, seal, signature, initials, or other mark of or used by the officers of the customs for the verification of any such document or instrument, or for the security of goods, or any other purpose, in the conduct of business relating to the customs, every person so offending shall for every such offence forfeit a sum not exceeding one hundred pounds: Provided always, that this penalty shall not attach to any particular offence for which any other penalty shall be expressly imposed by any law in force for the time being.

Counterfeiting and using false documents.

Penalty.

Proviso.

93. And whereas it frequently occurs that certain indulgences are granted to merchants and others by the collector of customs on bond being given for the security of the revenue, and as doubts may arise whether such bonds would in law be valid: It is therefore enacted and declared, that in all cases where bonds shall be entered into with the collector of customs for the due performance of any order, matter, or thing relative to the customs, such bonds shall be valid in law, and upon breach of any of the conditions thereof may be sued and proceeded upon in like manner as any other bond entered into by virtue of this Ordinance.

Bond entered into with the collector for the due performance of anything relating to the Customs, to be valid in law.

94. If any person shall assault, resist, oppose, molest, hinder, or obstruct any officer of the customs or police, or any headman or other person so employed in the exercise of his office, or any person acting in his aid or assistance, such person being thereof convicted shall be guilty of an offence, and punished at the discretion of the court before which such person shall be tried.

Any person obstructing officers guilty of an offence.

95. The following goods may, by proclamation made by the Governor, with the advice of the Executive Council, be prohibited either to be exported or carried coastwise; namely, arms, ammunition, and gunpowder, military and naval stores, and any articles which the Governor, with the advice of the Executive Council, shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food by man; and if any goods so prohibited shall be exported from Ceylon or carried coastwise, or be waterborne to be so exported or carried, such goods may be seized and shall be forfeited.

Export, &c. of military and naval stores may be prohibited.

96. All machinery for the improvement of the communications and for the development of the resources of this Island may be imported free of duty.

Machinery.

97. The Governor, with the advice and consent of the Executive Council, may from time to time alter and extend the list of machinery named in Schedule B. hereto annexed, and which comes within the definition contained in the preceding clause. All such alterations and extensions shall be published in the "Government Gazette."

Power to the Governor to alter list.

98. Every person who shall make or cause to be made an entry inwards or entry outwards of any goods, not being duly authorized thereto by the proprietor or consignee or exporter of such goods, shall for every such offence forfeit a sum not exceeding one hundred pounds.

Unauthorized persons not permitted to make entries.

99. It shall be lawful for the collector to authorize the officers of customs to take samples of goods for the purpose of ascertaining the duties payable on such goods, and such samples shall be accounted for in such manner as the collector may direct.

Samples.

100. The collector may refuse to grant clearance to any ship until the owner, agent, or master of that ship, or some other person, shall have paid all port dues, fees, fines, penalties, or charges to which such ship or the owner or master of such ship in respect thereof shall be liable under this or any other Ordinance: Provided such port dues, fees, fines, penalties, or charges shall have been incurred during her present voyage inwards or outwards.

Collector may refuse clearance.

XIV.—*Smuggling, Seizures, and Prosecutions generally.*

101. All goods and all ships and boats which by this Ordinance are declared to be forfeited shall and may be seized by any officer of the customs; and such forfeiture of any ship or boat shall include the guns, tackle, apparel, and furniture of the same, and such forfeiture of any goods shall include all other goods which shall be packed with them, as well as the packages in which they are contained; and all carriages or other means of conveyance, together with all horses and all other animals, and all other things made use of in any way in the concealment or removal of any goods liable to forfeiture under this Ordinance shall be forfeited.

Smuggling, seizures, and prosecutions generally.

Forfeiture of ship to include tackle, &c.

102. It shall be lawful for any officer of customs, or other person acting in his aid or assistance, or duly employed for the protection of the revenue, upon reasonable suspicion, to stop and examine any cart, carriage, or other means of conveyance, for the purpose of ascertaining whether any smuggled goods are contained therein; and if no such goods shall be found, then and in such case the officer or other person so stopping and examining such cart, carriage, or other conveyance, having had probable cause to suspect that such cart, carriage, or other conveyance had smuggled goods contained therein, shall not on account of such stoppage and search be liable to any prosecution or action on account thereof; and all persons driving or conducting such cart, carriage, or other conveyance, refusing to stop when required so to do in the Queen's name, shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding one hundred pounds.

Officers of customs, &c. may on probable cause stop carts, &c. and search for goods.

103. Under authority of a writ of assistance granted by the Chief Justice or any judge of the Supreme Court (who are hereby authorized and required to grant such writ of assistance upon application made to them for that purpose by the collector of customs), it shall be lawful for any officer of the customs, taking with him a peace officer, to enter into and search any building or other place in the daytime; and in case of resistance to break open doors, chests, trunks, or other packages, there to seize and

Writ of assistance to search for and seize goods liable to forfeiture.

from thence to bring any uncustomed or prohibited goods, and to put and secure the same in the Queen's warehouse; and all writs of assistance so issued shall continue and be in force during the whole of the reign in which such writs shall have been granted, and for twelve months from the conclusion of such reign.

Duration of writs of assistance.

Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring, or having custody of such goods, to forfeit treble the value, or 100*l.*

104. Every person who shall be concerned in importing or bringing into the Island any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not, and every person who shall unship or assist, or be otherwise concerned in the unshipping of any goods which are prohibited, or of any goods which are restricted and imported contrary to such restriction, or of any goods liable to duty the duties for which have not been paid or secured, or who shall knowingly harbour, keep, or conceal, or shall knowingly permit, or suffer, or cause, or procure to be harboured, kept, or concealed, any such goods, or any goods which have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited, or into whose hands and possession any such goods shall knowingly come, or who shall assist or be concerned in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid, or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of customs, with intent to defraud the revenue of such duties or any part thereof, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or the penalty of one hundred pounds, at the election of the collector of customs.

If goods removed prior to examination, penalty upon parties concerned in the removal.

105. Every person who shall remove any goods imported into the Island from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of customs, unless under the care or authority of such officer, or who shall remove or withdraw from any quay, wharf, or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer, or so that the same are not duly warehoused, and every person who shall assist or be otherwise concerned in such removal or withdrawal, or shall knowingly harbour, keep, or conceal, or shall knowingly permit or suffer, or cause or procure to be harboured, kept, or concealed any such goods, or into whose possession any such goods shall knowingly come, every such person shall forfeit either treble the value thereof, or the penalty of one hundred pounds, at the election of the collector of customs.

Persons assisting in unshipping or harbouring such goods liable to treble the value, or 100*l.*

106. Every person who shall assist or be otherwise concerned in the unshipping, landing, or removal, or in the harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of one hundred pounds, at the election of the collector of customs; and the averment in any information to be exhibited for the recovery of such penalty that the collector of customs has elected to

sue for the sum mentioned in the information shall be deemed sufficient proof of such election, without any other or further evidence of such fact.

How value to be ascertained.

107. In all cases where any penalty, the amount of which is at any time to be determined by the value of any goods, is directed to be sued for under this Ordinance, such value shall be deemed and taken to be according to the rate and price which goods of the like sort or denomination, and of the best quality, bear at such time at the place of importation, and upon which the duties due upon importation have been paid.

Goods, vessels, &c. liable to forfeiture may be seized by officers, &c.

Persons resisting officers, or rescuing or destroying goods to prevent seizure, to forfeit 100*l.*

108. All goods, and all ships and boats, and all carriages and all cattle, liable to forfeiture under this Ordinance, shall and may be seized in any place, either by land or water, by any officer of the customs or police, or by any headman, or by any person employed for that purpose, by or with the concurrence of the Governor; and every person who shall in any way hinder, oppose, molest, or obstruct any officer of the customs or police, or any headman, or any person so employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, or shall rescue, or cause to be rescued any goods which have been seized, or shall attempt or endeavour to do so, or shall before or at or after any seizure stave, break, or otherwise destroy any goods to prevent the seizure thereof, or shall rescue the same, then and in any such case the party so offending shall be guilty of an offence, and shall for every such offence forfeit a sum not exceeding one hundred pounds.

Goods stopped or taken by police officer.

109. If any goods liable to forfeiture under this Ordinance shall be stopped or taken by any police officer or headman, such goods shall be conveyed to the custom house nearest to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within a reasonable time after the said goods were stopped and taken ; and in case any police officer or headman stopping such goods shall neglect to have the same conveyed to such custom house within a reasonable time, such police officer or headman shall forfeit a sum not exceeding ten pounds.

Officers making collusive seizures, or taking bribes, and persons giving bribes, subjected to penalties.

110. If any officer of the customs, or any person employed for the protection of the revenue, shall make any collusive seizure, or deliver up, or make any agreement to deliver up, or not to seize any ship, boat, or goods liable to forfeiture under this Ordinance, or shall take any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, every such officer or other person shall forfeit for every such offence a sum not exceeding 100*l.*, and be rendered incapable of serving this Government in any office whatever ; and every person who shall give or offer, or promise to give or procure to be given any bribe, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal, or connive at anything whereby the provisions of this Ordinance may be evaded, shall forfeit a sum not exceeding one hundred pounds.

Officers may search persons on board or on shore in certain cases.

111. It shall be lawful for any officer of customs to go on board any ship which shall be within the limits of any port in this Colony, and search any person on board, and it shall be lawful for him to search any person who shall have landed from any ship, or any person passing or having passed through the custom house, provided such officer shall have good reason to suppose that such person shall have any uncustomed or prohibited goods secreted about his person ; and if any person shall obstruct any such officer in the performance of any such duty, every such person shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one hundred pounds.

Penalty for obstructing the officer.

Before such search the person may require to be taken before a justice of the peace, or a superior officer of the customs.

112. Before any person shall be searched by any such officer as aforesaid it shall be lawful for such person to require such officer to take him before a justice of the peace, or before the collector or other superior officer of customs, who shall determine whether there is reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person ; and if it shall appear to such justice, collector, or other superior officer of customs that there is reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, then such justice, collector, or other superior officer of customs shall direct such person to be searched in such manner as he shall think fit ; but if it shall appear to such justice, collector, or other superior officer of customs, that there is not reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, then such justice, collector, or other superior officer of customs shall forthwith discharge such person, who shall not in such case be liable to be searched; and every such officer as aforesaid is hereby authorised and required to take such person, upon demand, before any such justice, collector, or other superior officer of customs, detaining him in the meantime : Provided that no person being a female shall be searched by any other person than a female duly authorised for that purpose by the collector of customs.

Proviso.

Penalty on officers for misconduct with respect to search.

113. If any such officer shall not take such person with reasonable despatch before such justice, collector, or other superior officer of customs when so required, or shall require any person to submit to be searched by him, not having reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, such officer shall forfeit and pay a sum not exceeding ten pounds.

Penalty on persons on board falsely denying having foreign goods about them.

114. If any passenger or other person on board any ship or boat, or after landing therefrom, shall, upon being questioned by any officer of the customs whether he has any foreign goods upon his person or in his possession, deny the same, and any such goods shall, after such denial, be discovered upon his person or in his possession, such goods shall be forfeited, and such person shall forfeit treble the value of such goods.

Recovery of penalties.

115. All penalties and forfeitures which shall be incurred under this Ordinance shall and may be sued for and recovered in the name of the Queen's Advocate in the respective courts of this Island, in like manner as other revenue cases: Provided, however,

that in case of any person committing an offence or act under this Ordinance, and which offence or act could not otherwise be cognizable by a police court by reason of the punishment to which the same is subject, it shall be competent for the police court, upon a certificate being presented to such court, signed by the Queen's Advocate or by some competent Deputy Queen's Advocate, that such officer is content that such offence or act shall be prosecuted before such court, to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as police courts are empowered by law to award.

Averment of offence.

116. In any information or other proceeding for any offence against this Ordinance the averment that such offence was committed within the limits of any port shall be sufficient, without proof of such limits, unless the contrary be proved.

Several persons concerned in the same offence jointly and severally liable to the penalty, and may be sued either by one or by separate informations.

117. When any penalty is imposed upon any person committing or concerned in the act by which such penalty is incurred, and such offence shall have been committed by several persons jointly, or several persons shall have been concerned in the same, such several persons shall jointly and severally incur every such penalty; and it shall be lawful to proceed against such persons to recover such penalty, jointly by one information, or severally by separate informations, as the Queen's Advocate may deem expedient.

Onus probandi to be on the party.

118. If any goods shall be seized for nonpayment of duties or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or whether the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall lie on the owner or claimer of such goods, and not on the Queen's Advocate or the officer who shall seize or stop the same.

Application of penalties.

119. All forfeitures and penalties recovered under this Ordinance shall be paid into the hands of the collector of customs at the port or place where or nearest to which the same shall have been recovered, and shall be divided, paid, and applied (after deducting any expenses incurred) as follows, that is to say, one moiety to the Colonial Treasurer, for the purpose of the general revenue of the Island, and the other moiety to the seizing officer, or informer, or both, in such manner as the collector may direct.

Seized goods, if unclaimed for a month, to be condemned and dealt with accordingly.

120. All ships, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited under this Ordinance, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to ships, boats, goods, and other things seized and condemned for breach of such Ordinance, unless the person from whom such ships, boats, goods, and other things shall have been seized, or the owner of them, or some person authorized by him, shall, within one month from the date of seizure of the same, give notice in writing to the collector or other chief officer of customs at the nearest port that he intends to enter a claim to the ship, boat, goods, or other things seized as aforesaid, and shall further give security to prosecute such claim before the court having jurisdiction to entertain the same, and to restore the things seized or their value, and otherwise to satisfy the judgment of the court and to pay costs. On such notice and

Seized goods may be given up on security being given.

security being given in such sum as the collector or proper officer of customs at the port where or nearest to which the seizure was made shall consider sufficient, the ship, boat, goods, or other things seized shall, if required, be delivered up to the claimant; but if proceedings for the recovery of the ship, boat, goods, or other things so claimed be not instituted in the proper court within 15 days from the date of notice and security as aforesaid, the ship, boat, goods, or other things seized shall be deemed to be forfeited and shall be dealt with accordingly by the collector or other proper officer of customs.

Claim to thing seized to be entered in the name of the owner.

121. No claim to anything seized under this Ordinance shall be admitted by such court, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, nor unless the claimant shall at the time of filing his libel or plaint to establish his claim satisfy the court that he has given notice and security as in the preceding section enacted.

Fifteen days notice to be given to officers.

122. No summons shall be sued out against, nor a copy of any process served upon, any officer of the customs or other person as aforesaid, for anything done in the exercise of his office, until fifteen days after notice in writing shall have been delivered to him, or left at his usual place of abode, by the party who intends to sue out such summons or process, his attorney or agent, in which notice shall be clearly and explicitly stated the cause of the action, the name and place of the abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced except of such as shall be stated in such notice; and no judgment shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a judgment and costs.

Actions to be brought within two months of the cause of them.

123. Every such action as in the last section referred to shall be brought within two months after the cause thereof, and shall be laid and tried in the district where the facts were committed; and if the plaintiff shall become nonsuited, or shall discontinue the action, or if judgment shall be given against the plaintiff, the defendant shall receive the costs of suit.

Officer may tender amends.

124. It shall be lawful for such officer or other person as aforesaid, within one month after such notice, to tender amends to the party complaining, or to his agent, and to plead such tender in bar to any action, together with other pleas; and if the court shall find the amends sufficient, it shall give judgment for the defendant; and in such case, or in case the plaintiff shall become nonsuited, or shall discontinue his action, or judgment shall be given for the defendant, such defendant shall be entitled to costs as in the preceding section mentioned: Provided always, that it shall be lawful for such defendant, by leave of the court where such action shall be brought at any time before issued joined, to pay money into court as in other actions.

125. In case any information shall be brought to trial on account of any seizure made under this Ordinance, and a judgment shall be given for the claimant thereof, and the court before which the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action or prosecution on account of such seizure; and if any action shall be brought to trial against any person on account of such seizure, wherein a judgment shall be given against the defendant, if the court before which such information shall have been tried shall have certified on the said record that there was a probable cause for such seizure, the plaintiff shall only be entitled to a judgment for the things seized, or the value thereof, and not to any damages, nor to any costs of suit.

Judge may certify probable cause of seizure.

126. All actions or prosecutions for the recovery of any of the penalties or forfeitures imposed by this Ordinance may be commenced or prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture shall be incurred, any law, usage, or custom to the contrary notwithstanding.

Limitation of suits.

127. All persons employed for the protection of the revenue under the direction of the Governor or of the collector, shall be deemed and taken to be duly employed for the protection of the revenue; and the averment in any information that such person was so duly employed shall be sufficient proof thereof, unless the defendant in such information shall prove to the contrary.

Persons employed for the protection of the revenue to be deemed to be duly employed.

128. All ships and boats, and all goods whatsoever, which shall have been seized and condemned for a breach of this Ordinance, shall be disposed of as soon as conveniently may be after the condemnation thereof, in such manner as the collector or other proper officer of customs shall direct: Provided that all horses, cattle, or goods of a perishable nature may be sold forthwith.

Vessels and goods seized and condemned may be disposed of as the collector, &c. shall direct.

129. In all cases in which under this Ordinance any ships, boats, conveyances, goods, or other things have become liable to forfeiture, or shall have been forfeited, and in all cases in which the master or any person in charge of a ship, or employed in landing or shipping goods, or passing them through the custom house, shall have become liable to any penalty, it shall be lawful for the collector, should he deem such forfeiture or penalty unduly severe, to mitigate the same; but all cases so determined by the collector shall nevertheless be liable to revision by the Governor.

Collector in certain cases may mitigate forfeiture or penalty.

130. In case any goods, ships, or boats shall be seized as forfeited, or detained as undervalued, by virtue of this Ordinance, it shall be lawful for the Governor to order the same to be restored in such manner and on such terms and conditions as he shall think fit to direct; and if the proprietor of the same shall accept the terms and conditions prescribed by the Governor, he shall not have or maintain any action for recompense or damage on account of such seizure or detention; and the person making such seizure shall not proceed in any manner for the purpose of obtaining the condemnation thereof.

Restoration of seized goods, ships, &c.

The Governor may restore seizures, and mitigate or remit punishments and penalties.

131. The Governor may, by any order made for that purpose, direct any ship, boat, goods, or other commodities whatever, seized under this Ordinance, to be delivered to the proprietor thereof, whether condemnation shall have taken place or not, and may also mitigate or remit any penalty or fine or any part of any penalty or fine incurred under this Ordinance, or may release from confinement any person committed under this Ordinance, on such terms and conditions as to him shall appear to be proper: Provided always, that no person shall be entitled to the benefit of any order for such delivery, mitigation, remission, or release, unless such terms and conditions are fully and effectually complied with.

Commencement of Ordinance.

132. This Ordinance shall come into operation on such day as shall be named by the Governor in a proclamation to be by him for that purpose issued.

SCHEDULE A.

Ordinances to be repealed.

Date of Ordinance.	Title of Ordinance.	Extent of Repeal.
18—1852	To consolidate and amend the law relating to the Customs	The whole Ordinance.
9—1853	To amend in certain respects the Ordinance 18 of 1852, and to permit the exportation of Cinnamon Plants and Seeds - - - - - -	Do.
14—1857	To provide for the Importation of Salt into the Island on payment of fixed duty - - - -	Do.
2—1859	To exempt certain Articles of Machinery from duty -	Do.
7—1861	To make provision for the Stowage of Goods in the Customs Warehouse - - - -	Do.
3—1862	For exempting Paper from Duties of Customs - -	Do.
5—1862	To prohibit when required the exportation and carriage coastwise of Military and Naval Stores - -	Do.

SCHEDULE B.

Table of Customs Duties.

Import Duties.

		£	s.	d.
Ammunition and arms, viz.:				
Fowling pieces, guns, and rifles, single barrelled	each	0	5	0
Do. do double barrelled, and revolvers - - - - -	do.	0	10	0
Gunpowder - - - - -	the lb.	0	0	4
Blasting powder - - - -	do.	0	0	1
Pistols, single barrelled - - - -	each	0	3	0
Do. double barrelled, and revolvers - -	do.	0	6	0
Shot - - - - - -	the cwt.	0	1	0
Asphalte - - - - - -	the ton	0	5	0
Bacon, butter, cheese, and hams - - -	the cwt.	0	6	0

Customs.

		£	s.	d.
Beef, pork, humps, tongues, salted or corned -	the cwt.	0	2	6
Beer, ale, porter, and all other malt liquors in wood	the gallon	0	0	3
Do. do. do. in bottle	do.	0	0	4
Candles, spermaceti, wax, stearine, and composition	the cwt.	0	6	0
Do. tallow - - - - -	do.	0	3	0
Cement - - - - - -	do.	0	0	4
Cotton goods, viz. :—				
„ Grey cambrics, „ Madapolams, „ shirtings — on an assessed value of 1*s.* 7*d.* per lb. for every 100*l.* value thereof - -		5	0	0
„ domestics, „ long cloths, „ sheetings, „ tea cloths, „ mule twist — on an assessed value of 1*s.* 4½*d.* per lb. for every 100*l.* value thereof - - Nos. 30 to 60.		5	0	0
Yarns, Turkey red, on an assessed value of 3*s.* 0*d.* per lb. for every 100*l.* value thereof - -		5	0	0
„ orange, green, and other colours, on an assessed value of 2*s.* 0*d.* per lb. for every 100*l.* value thereof		5	0	0
Cotton seed - - - - -	the cwt.	0	0	4
Fish, dried or salted, roes, fins, skins, and blood the produce of creatures living in the sea - - -	the cwt.	0	1	0
Flour (wheat) - - - - -	do.	0	2	0
Ghee - - - - - -	do.	0	5	0
Gunnies of all kinds - - - -	per 100 bags	0	3	0
Metals :—				
Brass sheets, wire, and nails - - -	the cwt.	0	6	0
Copper sheathing, bars, bolts, ingots, plates, nails, and tacks	do.	0	6	0
Iron bar, flat, square, bolt, or round, rod and nail rod	the ton	0	8	0
Do. angle, Swedish bar, hoop, plate, and sheet -	do.	0	10	0
Do. corrugated - - - - -	do.	0	14	0
Do. galvanized, viz. : guttering, hoop, nails, piping, ridging, rivets, sheets, and sheets corrugated, spouting, strapping, screws, tiles, washers, wire - - -	the ton	1	10	0
Do. nails and tacks of sorts, and rivets - -	the cwt.	0	1	3
Do. pig - - - - - -	the ton	0	5	0
Lead, sheet, pipe, and pig - - -	do.	1	0	0
Spelter, tin, zinc, in cake or slab - -	do.	1	0	0
Steel blister - - - - -	do.	1	0	0
Do. cast - - - - -	do.	1	5	0
Tin plates - - - - -	the cwt.	0	1	6
Zinc perforated - - - - -	do.	0	6	0
Onions - - - - - -	do.	0	0	4
Opium - - - - - -	the lb.	0	1	0
Paddy - - - - - -	the bushel	0	0	3
Poonack - - - - - -	the cwt.	0	0	4
Potatoes - - - - - -	do.	0	0	9
Rice, wheat, gram, peas, beans, and other grain, except paddy - - - - - -	the bushel	0	0	7
Salt - - - - - -	the cwt.	0	4	3
Saltpetre - - - - - -	do.	0	1	0

Customs.

		£	s.	d.
Spirits and cordials - - - -	the gallon	0	5	0
Sugar, viz. :—				
Jaggery or palm, not equal in quality to brown or Muscavado - - - - -	the cwt.	0	1	0
Brown, unrefined or Muscavado- - -	do.	0	2	6
Sugar candy, white clayed, refined, or sugar rendered by any process equal thereto - - - -	the cwt.	0	5	0
Tallow and grease - - - -	do.	0	2	6
Tar or pitch - - - - -	do.	0	0	4
Do. Stockholm - - - - -	do.	0	0	9
Tea - - - - - -	the lb.	0	0	6
Tobacco, manufactured - - - -	do.	0	0	4
Do. unmanufactured and hooka - -	do.	0	0	2
Do. cigars, cheroots, and snuff - -	do.	0	1	0
Wine, in bottle - - - - -	the gallon	0	2	6
Do. ginger - - - - -	do.	0	1	0
Do. claret in wood - - - -	do.	0	1	0
Do. other kinds in wood - - -	do.	0	1	6
Goods, wares, and merchandize, not otherwise charged with duty, or prohibited, and not comprised in the Table of Exemptions herein-after set forth, for every 100*l.* of the value thereof in this market - - - -	the gallon	5	0	0

Table of Exemptions.

Acids - - - - - - - - -	Free.
Animals, viz., horses, mules, asses, neat cattle, and all other live stock	,,
Arrecanuts - - - - - - - -	,,
Arrowroot - - - - - - - -	,,
Beeswax - - - - - - - -	,,
Books and maps, printed - - - - - - -	,,
Bricks and tiles of clay - - - - - - -	,,
Bullion, coin, pearl oysters, pearls, and precious stones unset -	,,
Canoes - - - - - - - - -	,,
Cardamons - - - - - - - -	,,
Casks, empty, shooks and staves - - - - - -	,,
Castor-seed, Punacoo - - - - - - -	,,
Coal, coke, and patent fuel - - - - - -	,,
Cocoanuts, and cocoanut oil - - - - - -	,,
Coffee - - - - - - - - -	,,
Coir yarn, rope, junks, fibre, twine, and strands - - -	,,
Copperah - - - - - - - -	,,
Cotton wool - - - - - - - -	,,
Cowries and shells (not tortoise-shell) - - - -	,,
Dammer - - - - - - - - -	,,
Drawings - - - - - - - -	,,
Fruits, fresh, and not in any way preserved - - -	,,
Grindstones - - - - - - - -	,,
Hay, straw, and bran - - - - - - -	,,
Hops - - - - - - - - -	,,
Horns - - - - - - - - -	,,
Ice - - - - - - - - -	,,

Images and statuettes - - - - - -	Free
Instruments, scientific - - - - - -	"
Jute - - - - - - - -	"
Leeches, live - - - - - - -	"
Machinery, viz. :—	
Agriculture and Agricultural Produce.—Machinery for the manufacture of oil and sugar, pulpers, peelers, sizers, winnowing, thrashing, corn mill, and flour-dressing machinery - -	"
Building and Sanitary purposes.—Machinery for the manufacture of bricks, tiles, and drain-pipes, dredging and pile-driving machinery	"
Cranes, Presses, &c.—Hydraulic, screw, lever, or cam presses, cranes, derricks, crab-winches, screw and other jacks - -	"
Forge and Foundry Machinery.—Steam, tilt, lift, and pneumatic hammers, forging machines, smithy or foundry fans, blowing machines, and iron work for reverberatory furnaces and cupolas	"
Gas.—Retorts, gas mains, hydraulic mains, purifiers, condensers, gas-holders, hydraulic valves, gas meters, pressure gauges -	"
Machinery for Fibrous Substances and Textile Fabrics.—Cotton gins, openers, scutchers, lap machines, carding engines, drawing-frames, slubbing-frames, rovers, throstles, self-acting mules, spinning jennies, burring machines, teazing, condensing, fibre machines, hackling machines, balling engines, spreaders, tow-lap or cop-winding machines, rope machines, silk winding, spinning, sizing, doubling, throwing, fibre machines, hand, power, and Jacquard looms, knitting machines, calenders - -	"
Mill-work.—All shafting, drums, machine pullies and belting, wall-boxes, hangers, brackets, plummer-blocks, brasses and bushes, spur, mitre, bevel, and friction gearing; geared horseworks, either for horses or adapted to other animals, with all fittings and connexions for transmitting power to machinery - -	"
Mining, &c.—Ore-crushing, stamping, washing and separating machinery, stone-breaking machines, and machinery for tunnels or perforating rock - - - - - -	"
Paper and Printing.—Printing and lithographic presses; type and type machinery; machinery used in the preparation and manufacture of paper - - - - - -	"
Prime Movers.—Windmills, water-wheels, water-pressure engines, turbines and other hydraulic motors; all descriptions of marine, locomotive, stationary, and portable steam engines, pneumatic, atmospheric, and magneto-electric engines, their boilers, generators, fittings, connexions, and gearing; also machinery for lifting, forcing, conducting, or storing water - - - -	"
Railway.—Traversers, turntables, railway and cart weighing machines, points, crossings, fittings, couplings, wheels, axles, axle-boxes, and iron work for railway carriages, rails (temporary and permanent), spring buffers - - - - -	"
Workshop.—Punching, shearing, plate-bending, plate-cutting, riveting, drilling, boring, planing, shaping, slotting, screw-making, sawing, tenoning, mortising, moulding, rebating, tongueing, and grooving machines, lathes, file-cutting, carving, engraving, bolt-making, rivet-making, and washer-making machines	"

Sundries.—Machinery for the manufacture of fish-guano or other manures, bone-crushing and peat compressing machinery, machines for the manufacture of casks - - -	Free.
All the machinery above stated either whole or in parts.	
Manures of all sorts, and ingredients imported solely for the manufacture of manures, and certified as such by the importer -	,,
Manuscripts - - - - - - -	,,
Nets, fishermen's - - - - - - -	,,
Oil, the produce of creatures living in the sea - - -	,,
Olas - - - - - - - -	,,
Paper and envelopes - - - - - -	,,
Passengers baggage, viz., wearing apparel, and instruments intended for the professional use of and accompanying passengers	,,
Plants, trees, and seeds, intended for agricultural and horticultural purposes - - - - - - -	,,
Plumbago - - - - - - - -	,,
Regimental clothing, uniforms, necessaries, accoutrements, and band instruments, imported for the use of Her Majesty's land and sea forces - - - - - - - -	,,
Saltpetre, refuse of, for purposes of manure only, as certified by the importer - - - - - - -	,,
Slates, roofing - - - - - - -	,,
Specimens and objects illustrative of natural history - -	,,
Stones, ballast - - - - - - -	,,
Do. coral - - - - - - -	,,
Do. grinding - - - - - - -	,,
Do. tomb and tablets - - - - - -	,,
Tanks, iron - - - - - - -	,,

SCHEDULE C.

Table of Prohibitions and Restrictions Inwards.

Ammunition, arms, gunpowder, and utensils of war by way of merchandize, except by license from Her Majesty for furnishing Her Majesty's public stores only, or under the directions of the collector by authority of the Governor.

Books wherein the copyright shall be first subsisting, first composed, or written or printed in the United Kingdom, and printed or reprinted in any other country, and of which notice that copyright subsists shall have been given by the proprietor to the Commissioners of Customs, London.

Coin, viz. :—

False money, or counterfeit sterling coin of the realm, or any money purporting to be such, not being of the established standard in weight or fineness.

Dangerous substances, viz. :—earth oil or mineral naphthas, fulminating powder, gun cotton, nitro-glycerine, except by license of the Governor, and under regulations to be made by the Governor, with the advice of the

Executive Council, from time to time, for the safe landing and deposit thereof.

Indecent or obscene prints, paintings, books, cards, lithographs. photographs, engravings, or any other indecent or obscene articles.

Infected cattle, sheep, or other animals, also hides, skins, horns, hoofs, or any part of cattle or other animal, which the Governor may by proclamation prohibit, in order to prevent contagious distemper.

Fish, grain, and other articles in a damaged, stinking, offensive condition, unfit for food and legitimate use, and likely to breed sickness or any contagious disorders.

Parts of articles, viz., any distinct or separate part of any article not accompanied by the other part, or all the other parts of such articles, so as to be complete or perfect, if such articles be subject to duty according to the value thereof.

SCHEDULE D.

Port Dues leviable at per Ton Burthen.

	£	s.	d.
On entry inwards with cargo, or with passengers exceeding one person, for every two tons - - - - -	0	0	2
On clearance outwards with cargo, or with passengers exceeding one person, for every two tons of burthen - - -	0	0	2
In the case of mail steamers, of whatever tonnages, the dues either inwards or outwards are not to exceed - - - -	5	0	0

Composition for Port Dues.

Vessels conveying goods between one port and another within the Island are allowed to compound for port dues for 12 months at per ton - - - - - - - -	0	1	0

Exemptions.

On entry inwards in ballast or with cargo reported for exportation, and the vessel leaves the port without breaking bulk or landing passengers, exceeding one person, for every two tons - -	Free.
On clearance in ballast or with the original cargo, if the vessel leaves the port without shipping goods or passengers exceeding one person, for every two tons burthen - - - -	"
Ships of 250 tons and upwards, not being mail steamers, landing cargo not exceeding 10 tons, and shipping cargo not exceeding 10 tons - - - - - - - -	"

17th December 1869.

218.

No. 18 of 1869.

An Ordinance to establish further Tolls.

Preamble.

WHEREAS it is expedient to establish the tolls herein-after specified : It is hereby enacted as follows :

Certain road tolls established.

1. From and after the passing of this Ordinance tolls shall be established on the roads herein-after specified, at the places herein indicated, or at such other places as the Governor from time to time, by proclamation, shall appoint.

Tolls.—Roads.

1. On the minor road from Hanwella to Nambápána, about half a mile from its junction with the high road from Colombo to Avisáwélla.
2. On the road from Badulla to Batticaloa, between the 10th and 11th mile-posts.
3. On the road from Badulla to Batticaloa, at or near the gap called Wewakanda, between the 20th and 21st mile-posts.
4. On the road from Haldummulla to Lémastota, called the Kandapala or Lémastota Grant-in-aid Road, between the 108th and 109th mile-posts.
5. On the road from Kurunégala to Kandy at Mallawapitiya.
6. On the road from Akuressa to Morowaka.

Ferry.

7. Kalar, on the road between Puttalam and Anurádhapura.
8. On the Jaffna Lake between Kolomputurai and Kalmunai.
9. On the Jaffna Lake between Kolomputurai and Nakatavanturrai.

31st December 1869.

219.

No. 19 of 1869.

To make Provision relating to the Possession and Use of Firearms.

Preamble.

WHEREAS it is expedient to make provision respecting the possession and use of firearms in this Island: It is therefore hereby enacted as follows:

1. Has had its effect.

Interpretation clause.

2. In the construction of this Ordinance the word "arms" shall be deemed and construed to include every description of fire-arms and air-guns, and every separate gun or pistol, barrel or stock, and no other weapon whatever.

License to possess fire-arms.

3. It shall not be lawful for any person to have in his custody or possession any arms without having obtained a license for such

arms; and any party who shall have in his custody or possession any arms without having obtained such license shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding two pounds, and all such arms shall be forfeited to the use of Her Majesty, her heirs and successors, if the court before which such conviction shall take place shall so adjudge: Provided, however, that nothing herein contained shall be construed to apply or extend to any licensed manufacturer of or dealer in arms, nor to any person while actually employed by any such manufacturer of or dealer in arms to carry or convey arms for the purposes of his trade, nor to any person while entrusted by a person, having any such license, with the temporary use or custody (whether as the servant of the owner, or by way of security for any debt or otherwise) of any arms for which a license has been obtained; and provided also, that no member of the family of a deceased person who had at the time of his decease a license to keep arms shall be liable to any fine for having such arms until after the expiration of one calendar month from the death of such licensed person.

Penalty.

Proviso.

4. Every license duly obtained under and in virtue of the provisions of the Ordinance No. 13 of 1847, or the Ordinance No. 22 of of 1848, shall be and continue in full force and effect so long as the arms for which the same was granted shall remain in the custody and possession of the person to whom such license was issued.

Licenses issued under former Ordinances to remain in force.

5. Any person who may be desirous to obtain any license under the provisions of this Ordinance shall make an application verbally or in writing to that effect, to the Government Agent or some Assistant Government Agent of the province within which such person resides, specifying the name and residence of such person, and the number and description of arms for which licenses are required; and such Government Agent or Assistant Government Agent shall issue to the person making the same a license for each gun, pistol, or other description of arms specified, as near as is material, according to the form in the Schedule A. hereto, which license shall be on a stamp of two shillings and sixpence: Provided always, however, that when any person shall apply for a license for any arms for which a license has been previously obtained by the former owner thereof, it shall be lawful for the Government Agent or Assistant Government Agent, and he is hereby required, to issue such license on a stamp of one shilling only.

License how obtained.

6. Whenever any such arms are not marked with such names or figures, or in such other manner as that the same may be readily identified, it shall be lawful for the Government Agent or Assistant Government Agent to whom the application is made, before granting the license applied for, to require the applicant to produce to him any such arms, and thereupon to cause the same to be marked, either on the stock or barrel, with some permanent mark, whereby the same may afterwards be known and identified, but in such manner as not to injure or disfigure the same; and such arms when duly marked shall, with the license relating thereto, be delivered to the said applicant; and

Firearms may be marked by the Government Agent, if necessary.

the expenses attendant on such marking shall be defrayed by the Government Agent or Assistant Government Agent out of the public funds; and if any person shall wilfully obliterate or deface, or shall alter, counterfeit, or forge any such mark, or any mark put on any arms under the provisions of the Ordinance No. 13 of 1847, or the Ordinance No. 22 of 1848, or shall mark any arms with any mark resembling or intended to resemble any mark used by such Government Agent or Assistant Government Agent, under the provisions of this Ordinance, or of the Ordinances above specified, with intent thereby to expose any person to any fine, or to defraud Her Majesty of any stamp duty, or to commit any other fraud, every such offender shall forfeit for each offence a sum not exceeding twenty pounds.

Penalty for fraudulently obliterating or forging mark.

Register of licenses.

7. Every Government Agent and Assistant Government Agent shall register all such licenses so granted in a book to be kept for that purpose; and it shall be lawful for any person, at any time during office hours, to demand inspection of the said book, and also to take any copy or extract therefrom.

Proceedings where license is lost, &c.

8. If any such license granted under the provisions of this Ordinance, or of the Ordinances above specified, shall be by any casualty destroyed, defaced, or lost, it shall be lawful for the person to whom the same shall have been granted to report the same to the Government Agent or any Assistant Government Agent for the province wherein such person resides; and if such Government Agent or Assistant Government Agent shall be satisfied of the fact of such casualty or loss, he shall grant to such person a certificate in substantially the Form B. in the schedule hereto, reciting such loss, and setting out the purport and effect of the license so lost, defaced, or destroyed, and such certificate shall be in lieu thereof, and of like force and effect.

Proof of ownership.

9. The occupier of any house or premises in which any arms shall be found shall, for the purposes of this Ordinance, be deemed and taken to be the possessor of such arms.

License to manufacture or sell arms.

10. No person shall make or keep for or expose to sale in this Island, by way of auction or otherwise, any arms or any part of any arms without a license from the Government Agent or some Assistant Government Agent of the province within which such person resides, which license shall be substantially according to the Form C. in the schedule hereto, and shall be on a stamp of one pound; and if any person shall have in his custody or possession, for the purpose of his trade as a manufacturer of or dealer in arms, any arms, or part thereof, without being so licensed, every such offender shall be liable on conviction thereof to a fine not exceeding five pounds: Provided always, that nothing herein contained shall be construed to prevent any person licensed to possess arms under the Ordinances above specified, or under this Ordinance, from selling any arms for which he has obtained a license: Provided also, that every license to manufacture or sell arms duly obtained under and in virtue of the provisions of the Ordinances, shall be and continue in full force and effect so long as the person to whom the same was granted shall continue to exercise his trade as a manufacturer of or dealer in arms.

Penalty.

Not to extend to sale of arms by the licensed owner thereof.

Licenses issued to dealers under former Ordinances to remain in force.

11. If any headman or officer of police, or any peace officer whomsoever, shall fail to inform against any person guilty of possessing or using arms without a license, and whom he shall have good reason to know or to believe to be guilty thereof, such headman, officer of police, or peace officer shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds in respect of every failure to inform against any such person as aforesaid. Headman to give information.

12. It shall be lawful for any magistrate to direct that any sum not exceeding one half of the fines actually recovered and realized under the provisions of this Ordinance shall go to the informer. Informer's share of penalty.

13. Whenever any person shall be charged before a competent court with possessing or using arms without a license, the party complaining shall not be required to prove the want of license, but the proof that such person is licensed shall be upon the accused: Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused against any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance. Proof of license. Vexatious complaints how punished.

14. No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by a police court, unless the same shall be commenced within one month from the time of the commission of such offence. Limitation of prosecutions.

15. Nothing in this Ordinance contained shall apply to or affect any person serving in Her Majesty's forces, or in any police force, or in any corps of pioneers in this Island, in respect of any arms intrusted to or used by any such person in such capacity. Ordinance not to extend to military and naval persons.

A.

(§ 5.)

FORM OF LICENSE TO POSSESS AND USE ARMS.

No.

A.B. of was this day licensed to possess and use (a double-barrelled fowling piece, by Manton, No. 6,749, *or* a single-barrelled pistol marked on the barrel M, *or as the case may be*).

Issued the day of

(Signed)

Government Agent.

B.

(§ 8.)

Whereas on the day of last, a license to keep the arms herein mentioned was granted by to *A.B.* of : And whereas it has been proved to my satisfaction that the said license has been (destroyed, defaced, *or* lost, *as the case may be*): Now I do hereby grant the said *A.B.*

this certificate, to be in lieu of the said license, and of the like force and effect.

Given under my hand at this day of

(Signed)

Government Agent.

(*Here insert the description of the arms licensed.*)

C.

(§ 10.)

License to make and sell Arms.

No. License is hereby granted to *A.B.*, of to use and exercise the trade or calling of a manufacturer of or dealer in arms at in the district of

Given at the day of

(Signed)

Government Agent.

31st December 1869.

220.

No. 1 of 1870.

An Ordinance relating to the fixed Civil Establishments of the Colony.

Preamble.

Whereas it is expedient to revise and consolidate the laws relating to the fixed civil establishments of the Colony: It is enacted as follows:

1. Repealing clause.

Governor may authorize payment of salaries as per Schedule A.

2. The Governor is hereby authorized and empowered to issue, from year to year, his warrant for the payment of the several yearly salaries and allowances, as appropriated in the Schedule A. hereto annexed.

Salaries of subordinate officers provided for in Schedule B.

3. The persons enumerated in the second column of Schedule B. to this Ordinance shall consist of all the officers of the several departments named in the first column, excepting such as are specified in Schedule A.

Governor to settle details of establishment under Schedule B., and vary them from time to time.

4. It shall be lawful for the Governor, with the advice and consent of the Executive Council, to determine the number of officers included in Schedule B. to be attached to each office, as also the payment to be awarded to each officer, and from time to time to vary the details of establishment in each office, and amend the distribution of the salaries of the officers thereunto belonging: Provided that the number of persons in each office, exclusive of those provided for in Schedule A., shall in no case exceed that specified in the second column of the Schedule B., and that the aggregate payment of such persons in each office shall in no case exceed the sums specified in the third column of the said Schedule B.: Provided further, that the payment of all officers included in Schedule B., drawing salaries of fifty pounds a year

and upwards shall be in accordance with the classification in the Schedule C., also hereunto annexed.

5. The Governor is hereby authorized and empowered to issue from year to year his warrant for the payment of the several yearly salaries and allowances of the officers in each department, as the same shall be fixed and apportioned by him under the fourth section of this Ordinance.

Governor may authorize payment of salaries as per Schedule B.

6. The Governor is also hereby authorized and empowered to issue his warrant for the payment of the several pensions, retired allowances, and gratuities, which have been already granted or which may hereafter be granted, in conformity with the provisions contained in the minutes of Government relating thereto now in force, or which may hereafter be made and issued.

Governor may authorize payment of pensions.

SCHEDULE A.

—	Fixed Establishment.			Total.		
	£	s.	d.	£	s.	d.
I.—CIVIL.						
HIS EXCELLENCY THE GOVERNOR.						
His Excellency the Governor - - -	7,000	0	0			
Aide-de-camp - - - - -	515	7	6			
Private Secretary - - - -	300	0	0			
				7,815	7	6
SECRETARIAT.						
Colonial Secretary - - - -	2,000	0	0			
Principal assistant and clerk to the councils -	1,000	0	0			
Second assistant and record keeper - -	600	0	0			
Twelve writers, at 200*l.* each - - -	2,400	0	0			
Sinhalese interpreter to the Governor and translator	250	0	0			
				6,250	0	0
Printing Branch.						
Government printer - - - -	500	0	0			
Assistant government printer - - -	250	0	0			
				750	0	0
				7,000	0	0
GENERAL TREASURY.						
Treasurer and Commissioner of Stamps - -	-		-	1,500	0	0
AUDIT OFFICE.						
Auditor and Accountant General and Comptroller of Revenue.	1,500	0	0			
Assistant Auditor General - - -	350	0	0			
				1,850	0	0
PROVINCIAL AGENCIES.						
WESTERN PROVINCE.						
Agent - - - - - -	1,500	0	0			
Assistant agent, Colombo - - -	450	0	0			
Assistant agent, Ratnapura - - -	800	0	0			
Assistant agent, Kégalla - - -	600	0	0			
				3,350	0	0

Civil Establishments.

—	Fixed Establishment. £	s.	d.	Total. £	s.	d.
I.—CIVIL—*continued.*						
NORTH-WESTERN PROVINCE.						
Agent - - - - - -	1,200	0	0			
Assistant agent, Kurunégala - - -	450	0	0			
Assistant agent, with judicial duties, Puttalam -	800	0	0			
				2,450	0	0
SOUTHERN PROVINCE.						
Agent - - - - - -	1,400	0	0			
Assistant agent, Galle - - - -	450	0	0			
Assistant agent, Mátara - - - -	600	0	0			
Assistant agent, with judicial duties, Hambantota	800	0	0			
				3,250	0	0
EASTERN PROVINCE.						
Agent - - - - - -	1,200	0	0			
Assistant agent, Batticaloa - - -	450	0	0			
Assistant agent, Trincomalee - - -	800	0	0			
				2,450	0	0
NORTHERN PROVINCE.						
Agent - - - - - -	1,500	0	0			
Assistant agent, Jaffna - - -	450	0	0			
Assistant agent, with judicial duties, Mannár -	800	0	0			
Assistant agent, with judicial duties, Anurádhapura. -	800	0	0			
Assistant agent, with judicial duties, Mullaittívu -	600	0	0			
				4,150	0	0
CENTRAL PROVINCE.						
Agent - - - - - -	1,500	0	0			
Assistant agent, Kandy - - - -	450	0	0			
Assistant agent, Badulla - - -	800	0	0			
Assistant agent, Mátalé - - - -	600	0	0			
Assistant agent, with judicial duties, Nuwara Eliya.	450	0	0			
				3,800	0	0
PUBLIC WORKS DEPARTMENT.						
Director of Public Works - - -	1,500	0	0			
Six provincial assistants, 2 @ 1,000*l.* each, 2 @ 800*l.* each, 2 @ 600*l.* each.	4,800	0	0			
Irrigation assistant - - - -	800	0	0			
Financial assistant - - - -	750	0	0			
Second do. - - - -	400	0	0			
Office assistant - - - - -	750	0	0			
Architect assistant - - - -	750	0	0			
Inspector of pioneers - - - -	600	0	0			
Six draftsmen and framers of estimates, 3 at 500*l.* each, and 3 at 400*l.* each.	2,700	0	0			
18 superintending officers, 1 @ 600*l.*, 4 @ 400*l.* each, 2 @ 350*l.* each, 9 @ 300*l.* each, and 2 @ 250*l.* each	6,100	0	0			
Factory engineer - - - -	400	0	0			
				19,550	0	0

Civil Establishments.

—	Fixed Establishment. £ s. d.	Total. £ s d.
I.—CIVIL—*continued.*		
SURVEY DEPARTMENT.		
Surveyor general - - - -	1,200 0 0	
First assistant - - - - -	750 0 0	
Second do. - - - - -	650 0 0	
Third do. - - - - -	600 0 0	
Fourth do. - - - - -	550 0 0	
Fifth do. - - - - -	500 0 0	
Sixth do. - - - - -	450 0 0	
Seventh do. - - - - -	400 0 0	
Eighth do. - - - - -	300 0 0	
		5,400 0 0
CUSTOMS DEPARTMENT.		
Principal collector of customs, Colombo - -	1,200 0 0	
Deputy collector and landing surveyor - -	800 0 0	
Landing surveyor, Colombo - - -	600 0 0	
		2,600 0 0
Collector of customs, Galle - - -	700 0 0	
Landing and tide surveyor, Galle - -	450 0 0	
		1,150 0 0
Assistant collector and landing surveyor, Jaffna -	- -	450 0 0
Assistant collector and landing surveyor, with duties of master attendant, Trincomalee -	- -	350 0 0
		4,550 0 0
HARBOUR DEPARTMENT.		
Master attendant, Colombo - - -	500 0 0	
Master attendant, Galle - - - -	500 0 0	
		1,000 0 0
POST OFFICE.		
Postmaster General - - - -	800 0 0	
Inspector of post offices and assistant postmaster general - - - - -	500 0 0	
		1,300 0 0
Deputy postmaster general, Galle - -	- -	300 0 0
Deputy postmaster general, Kandy - -	- -	300 0 0
		1,900 0 0
ROYAL BOTANIC GARDEN.		
Director - - - - -	- -	450 0 0
II.—JUDICIAL.		
SUPREME COURT.		
Chief Justice - - - - -	2,500 0 0	
Private secretary to Chief Justice - -	270 0 0	
Two puisne justices at 1,800*l.* each - -	3,600 0 0	
Two private secretaries at 180*l.* each - -	360 0 0	
		6,730 0 0

Civil Establishments.

—	Fixed Establishment. £ s. d.	Total. £ s. d.
II.—JUDICIAL—*continued.*		
REGISTRY OF THE SUPREME COURT.		
Registrar - - - - -	600 0 0	
1st deputy registrar - - - -	350 0 0	
2nd deputy registrar - - - -	300 0 0	
		1,250 0 0
QUEEN'S ADVOCATE'S DEPARTMENT.		
Queen's Advocate - - - -	1,500 0 0	
Deputy Queen's Advocate, Midland Circuit -	400 0 0	
Do. do. Northern do. -	400 0 0	
Do. do. Southern do. -	400 0 0	
Do. do. North-western Province - -	300 0 0	
Do. do. Eastern Province -	300 0 0	
		3,300 0 0
DEPUTY QUEEN'S ADVOCATE'S DEPARTMENT.		
Deputy Queen's Advocate - - -	- -	1,000 0 0
DISTRICT COURTS.		
District judge, Colombo - - -	1,200 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Galle - -	1,200 0 0	
District judge and joint commissioner of the Court of Requests, Kandy - - -	1,200 0 0	
District judge, Jaffna - - - -	1,000 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Batticalo -	800 0 0	
District judge and joint commissioner of the Court of Requests, and police magistrate, Kalutara - - - - -	800 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Kurunégala -	800 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Badulla -	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Chilaw - -	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Kégalla - -	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Mátara - -	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Negombo -	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Ratnapura -	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Tangalla	600 0 0	
District judge, commissioner of the Court of Requests, and police magistrate, Trincomalee -	600 0 0	
		11,800 0 0

Civil Establishments.

—	Fixed Establishment.			Total.		
II.—JUDICIAL—*continued.*	£	s.	d.	£	s.	d.
COURTS OF REQUESTS AND POLICE COURTS.						
Police magistrate, Colombo - - -	600	0	0			
Commissioner of the Court of Requests, Colombo -	600	0	0			
Commissioner of the Court of Requests and police magistrate, Galle - - - - -	600	0	0			
Commissioner of the Court of Requests and police magistrate, Kandy - - - -	600	0	0			
Commissioner of the Court of Requests and police magistrate, Gampola - - - -	450	0	0			
Commissioner of the Court of Requests and police magistrate, Jaffna - - - -	450	0	0			
Commissioner of the Court of Requests and police magistrate, Mátalé and Dambulla - -	450	0	0			
Commissioner of the Court of Requests and police magistrate, Avisáwélla and Pasyála - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Balapitimódara - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Chavakachchéri - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Galagedara - - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Haldummulla - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Kayts - - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Kalpitiya - - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Pánaduré - - - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Panwila and U'rúgala - -	350	0	0			
Commissioner of the Court of Requests and police magistrate, Point Pedro - - - -	350	0	0			
				7,250	0	0
REGISTRATION DEPARTMENT.						
Registrar General - - - - -	-	-	-	800	0	0
FISCALS.						
Fiscal, Colombo - - - - -	800	0	0			
Fiscal, Kandy - - - - -	600	0	0			
				1,400	0	0
LOAN BOARD.						
Secretary - - - - - -	-	-	-	300	0	0
III.—ECCLESIASTICAL.						
CHURCH OF ENGLAND.						
Bishop - - - - - -	2,000	0	0			
Allowance to Archdeacon - - - -	100	0	0			
Colonial Chaplain, St. Peter's Church - -	600	0	0			
Colonial Chaplain, Trinity Church - - -	600	0	0			
Sinhalese Colonial Chaplain, All Saints' Church -	400	0	0			
Portuguese do. St. Paul's Church -	300	0	0			
Carried forward - - -						

Civil Establishments.

—	Fixed Establishment.			Total.		
	£	s.	d.	£	s.	d.
III.—ECCLESIASTICAL—*continued.*						
Brought forward - - -						
Tamil colonial chaplain, St. Thomas' Church -	250	0	0			
Sinhalese colonial chaplain for the district of Galkisse and Milágiriya - - - -	125	0	0			
Sinhalese colonial chaplain for the district of Moratuwa and Koralawella - - -	125	0	0			
				4,500	0	0
Colonial chaplain, Galle - - - -	-	-	-	700	0	0
Colonial chaplain, Kandy - - - -	-	-	-	600	0	0
Colonial chaplain, Trincomalee - - -	-	-	-	600	0	0
Colonial chaplain, Jaffna - - - -	-	-	-	300	0	0
Colonial chaplain, Nuwara Eliya - - -	-	-	-	200	0	0
				6,900	0	0
PRESBYTERIAN CHURCH.						
Colonial chaplain of St. Andrew's Church, Colombo	450	0	0			
Do. of Wolfendahl Church, do.	450	0	0			
				900	0	0
Colonial chaplain, Kandy - - - -	-		-	450	0	0
Colonial chaplain, Galle - - - -	-	-	-	450	0	0
				1,800	0	0
IV.—PUBLIC INSTRUCTION.						
Director - - - - - -	1,000	0	0			
Inspector of schools - - - -	500	0	0			
Principal, Colombo Academy - - -	600	0	0			
2nd master, do. - - -	400	0	0			
				2,500	0	0
V.—MEDICAL.						
Principal civil medical officer and inspector genera of hospitals - - - - -	1,200	0	0			
Three colonial surgeons, 2 at 600*l.*, 1 at 500*l.* -	1,700	0	0			
Ten first-class assistant colonial surgeons at 300*l.*	3,000	0	0			
Fifteen second do do. at 200*l.*	3,000	0	0			
Eight third do. do. at 150*l.*	1,200	0	0			
				10,100	0	0
VI.—POLICE.						
Inspector General of Police - - - -	1,200	0	0			
(Future holder of the appointment 1,000*l.*)						
Two provincial superintendents at 500*l.* each -	1,000	0	0			
				2,200	0	0
VII.—PRISONS.						
Inspector General of Prisons - - -	1,000	0	0			
Superintendent of the Colombo Convict Establishments - - - - - -	800	0	0			
				1,800	0	0
VIII.—COLONIAL STORE.						
Colonial storekeeper - - - -	800	0	0			
Assistant colonial storekeeper 300*l.*, increasing by annual increments of 20*l.* to - - -	400	0	0			
				1,200	0	0

Civil Establishments.

SCHEDULE B.

Name of Department.	Total Number of Persons not exceeding	Total Amount of Salaries. £	s.	d.
His Excellency the Governor - - - -	10	215	16	0
Secretariat - - - - - -	29	2,541	16	0
Do. printing office - - - -	34	1,445	0	0
Treasury - - - - - -	24	1,931	0	0
Audit Office - - - - - -	18	1,745	0	0
Agencies:—				
Western Province: Colombo - - -	64	3,629	0	0
Kégalla - - -	25	737	12	0
Ratnapura - - -	21	704	0	0
North-western Province: Kurunégala - -	41	1,427	0	0
Puttalam - -	28	1,530	0	0
Southern Province: Galle - - -	26	1,629	0	0
Hambantota - - -	26	1,216	0	0
Mátara - - -	21	981	0	0
Eastern Province: Batticaloa - - -	63	1,727	0	0
Trincomalee - - -	26	756	0	0
Northern Province: Jaffna - -	94	2,328	0	0
Anurádhapura - -	20	650	0	0
Mannár - - -	64	1,117	6	0
Mullaittívu - - -	24	406	0	0
Central Province: Kandy - - -	55	2,709	4	0
Badulla - - -	41	1,223	0	0
Mátalé - - -	16	462	4	0
Nuwara Eliya - - -	15	528	4	0
Public Works Department - - -	30	2,265	0	0
Survey Department - - - - -	12	1,360	0	0
Customs Department: Western and North-western Provinces - - -	72	3,888	0	0
Southern Province - -	25	1,083	0	0
Eastern Province - -	10	239	0	0
Northern Province - -	41	1,462	0	0
Harbour Department: Colombo - - -	7	207	10	0
Galle - - - - -	3	49	0	0
Trincomalee - - -	1	40	0	0
Post Office: Western Province - - -	33	1,061	0	0
North-western Province - - -	41	559	0	0
Southern Province - - -	12	444	0	0
Eastern Province - - - -	4	106	0	0
Northern Province - - -	14	329	0	0
Central Province - - - -	26	1,062	0	0
Royal Botanic Garden - - - - -	9	308	0	0
Registry of the Supreme Court - - - -	23	864	16	0
Queen's Advocate - - - - -	15	670	12	0
Deputy Queen's Advocate - - - -	4	135	0	0
District Courts: Anurádhapura - - -	6	274	0	0
Badulla - - - -	9	529	12	0
Batticaloa - - - -	8	374	0	0
Chilaw - - - -	7	284	0	0
Colombo - - - -	13	910	0	0
Galle - - - -	11	714	0	0
Jaffna - - - -	11	446	0	0
Carried forward - - - -	- -			

Civil Establishments.

Name of Department.	Total Number of Persons not exceeding	Total Amount of Salaries. £ s. d.
Brought forward - - - -	- -	
District Courts—*continued.*		
Kalutara - - - -	12	541 0 0
Kandy - - - -	12	835 0 0
Kégalla - - - -	5	249 0 0
Kurunégala - - - -	11	549 0 0
Mannár - - - -	6	269 0 0
Mátara - - - -	9	427 0 0
Mullaittívu - - - -	5	177 0 0
Negombo - - - -	9	414 0 0
Ratnapura - - - -	9	389 0 0
Tangalla - - - -	6	304 0 0
Trincomalee - - - -	8	384 0 0
Court of Requests: Colombo - - - -	10	515 0 0
Police Courts: Avisáwélla - - - -	5	224 0 0
Balapitimódara - - - -	6	246 0 0
Colombo - - - -	8	445 0 0
Chávakachcheri - - - -	5	162 0 0
Dambulla - - - -	5	195 0 0
Galle - - - - -	7	384 0 0
Galagedara - - - -	6	256 0 0
Gampola - - - -	4	194 0 0
Haldummulla - - - -	4	186 0 0
Hambantota - - - -	3	182 0 0
Jaffna - - - - -	5	202 0 0
Kalpitiya - - - -	5	234 0 0
Kandy - - - - -	10	560 0 0
Kayts - - - - -	5	157 0 0
Mátalé - - - - -	5	229 0 0
Mátara - - - - -	3	114 0 0
Nuwara Eliya - - - -	3	120 0 0
Pánaduré - - - -	5	234 0 0
Panwila and U'rugala - - -	7	301 0 0
Point Pedro - - - -	5	162 0 0
Puttalam - - - -	5	234 0 0
Registration Department - - - -	106	6,203 0 0
Fiscals: Western Province - - - -	103	2,271 18 0
North-western Province - - -	45	892 0 0
Southern Province - - - -	104	1,881 0 0
Eastern Province - - - -	30	636 0 0
Northern Province - - - -	78	1,453 0 0
Central Province - - - -	89	1,777 12 0
Loan Board - - - - - -	6	330 0 0
Ecclesiastical Department - - - -	17	620 0 0
Public Instruction - - - - -	9	1,675 0 0
Medical Department - - - - -	41	320 4 0
Police - - - - - - -	2	330 0 0
Prisons: Inspector General - - - -	2	65 0 0
Colombo Convict Establishments - -	32	933 0 0
Colonial Store - - - - - -	35	1,430 2 6
Total - -	- -	£82,695 8 6

Civil Establishments.

ABSTRACT.

——	Schedule A.			Schedule B.			Total.		
	£	s.	d.	£	s.	d.	£	s.	d.
I.—CIVIL:									
His Excellency the Governor -	7,815	7	6	215	16	0	8,031	3	6
Secretariat - - -	7,000	0	0	3,986	16	0	10,986	16	0
General Treasury - -	1,500	0	0	1,931	0	0	3,431	0	0
Audit Office - - -	1,850	0	0	1,745	0	0	3,595	0	0
Agencies:									
Western Province - -	3,350	0	0	5,070	12	0	8,420	12	0
North-western Province -	2,450	0	0	2,957	0	0	5,407	0	0
Southern Province - -	3,250	0	0	3,826	0	0	7,076	0	0
Eastern Province - -	2,450	0	0	2,483	0	0	4,933	0	0
Northern Province - -	4,150	0	0	4,501	6	0	8,651	6	0
Central Province - -	3,800	0	0	4,922	12	0	8,722	12	0
Public Works Department -	19,550	0	0	2,265	0	0	21,815	0	0
Survey Department - -	5,400	0	0	1,360	0	0	6,760	0	0
Customs Department -	4,550	0	0	6,672	0	0	11,222	0	0
Harbour Department - -	1,000	0	0	296	10	0	1,296	10	0
Post Office - - -	1,900	0	0	3,561	0	0	5,461	0	0
Royal Botanic Garden -	450	0	0	308	0	0	758	0	0
Total, Civil - -	£70,465	7	6	46,101	12	0	116,566	19	6
II.—JUDICIAL:									
Supreme Court - -	6,730	0	0	—			6,730	0	0
Registry of the Supreme Court	1,250	0	0	864	16	0	2,114	16	0
Queen's Advocate's Department	3,300	0	0	670	12	0	3,970	12	0
Deputy Queen's Advocate's Department - -	1,000	0	0	135	0	0	1,135	0	0
District Courts - -	11,800	0	0	8,069	12	0	19,869	12	0
Courts of Requests and Police Courts - - -	7,250	0	0	5,536	0	0	12,786	0	0
Registration Department -	800	0	0	6,203	0	0	7,003	0	0
Fiscals - - -	1,400	0	0	8,911	10	0	10,311	10	0
Loan Board - - -	300	0	0	330	0	0	630	0	0
Total, Judicial - -	£33,830	0	0	30,720	10	0	64,550	10	0
III.—ECCLESIASTICAL:									
Church of England - -	6,900	0	0	620	0	0	7,520	0	0
Presbyterian Church -	1,800	0	0	—			1,800	0	0
Total, Ecclesiastical -	£8,700	0	0	620	0	0	9,320	0	0
IV.—PUBLIC INSTRUCTION - -	2,500	0	0	1,675	0	0	4,175	0	0
V.—MEDICAL DEPARTMENT -	10,100	0	0	820	4	0	10,920	4	0
VI.—POLICE - - -	2,200	0	0	330	0	0	2,530	0	0
VII.—PRISONS - - -	1,800	0	0	998	0	0	2,798	0	0
VIII.—COLONIAL STORE - -	1,200	0	0	1,430	2	6	2,630	2	6
Total - - £	130,795	7	6	82,695	8	6	213,490	16	0

SCHEDULE C.

Classification of Salaries between 300*l.* and 50*l.*

For Clerks and Officers in the Revenue, Judicial, Scientific, and Customs Departments.

Class	I.	-	£300	Class	X.	-	£120
"	II.	-	250	"	XI.	-	110
"	III.	-	200	"	XII.	-	100
"	IV.	-	180	"	XIII.	-	90
"	V.	-	170	"	XIV.	-	80
"	VI.	-	160	"	XV.	-	70
"	VII.	-	150	"	XVI.	-	60
"	VIII.	-	140	"	XVII.	-	50
"	IX.	-	130				

For Interpreters and Shroffs.

Class	I.	-	£250	Class	VI.	-	£90
"	II.	-	180	"	VII.	-	80
"	III.	-	140	"	VIII.	-	70
"	IV.	-	120	"	IX.	-	60
"	V.	-	100	"	X.	-	50

Officers of the Salt Department.

Class	I.	-	£200	Class	V.	-	£80
"	II.	-	150	"	VI.	-	60
"	III.	-	120	"	VII.	-	50
"	IV.	-	100				

5th January 1870.

221.

No. 2 of 1870.

An Ordinance to provide for the Improvement of the Galle Harbour.

Preamble.

WHEREAS it is expedient to provide for the improvement of the harbour of Galle: It is enacted as follows:

Short title.

1. This Ordinance may be cited for all purposes as the "Galle Harbour Ordinance."

Power to Government to borrow money for improving harbour.

2. It shall be lawful for the Governor of Ceylon, by and with the advice of the Executive Council, to borrow from the Public Works Loan Commissioners in England, for the purpose of improving the harbour of Galle, any sum or sums of money not exceeding in the whole two hundred and fifty thousand pounds sterling, the amount so borrowed, and the interest thereon, being charged on and made payable out of the general revenue of this Island.

3. It shall be lawful for the Governor to issue his warrant upon the Treasury from time to time for the payment to the Public Works Loan Commissioners in England of an annuity for thirty-five years of five per cent. upon the amount so borrowed, three and a half per cent. of this sum being interest on the advances, and one and a half per cent. a payment towards the extinction of the principal of the debt.

Governor to issue his warrant for the payment of an annuity of 5 per cent. for payment of principal and interest.

4. The money borrowed under the authority of this Ordinance shall be appropriated for the purpose of improving the said harbour of Galle, and for no other purpose.

Appropriation of money so borrowed.

5. It shall be lawful for the Governor, by and with the advice of the Executive Council, to levy when necessary, in lieu of the port dues now levied at Galle, under the Customs Ordinance, No. 17 of 1869, all or any of the dues specified in the Schedules A. and B. hereto annexed, not exceeding the rates therein expressed; and notice of the dues to be so levied from time to time at Galle shall be made by proclamation in the "Government Gazette," and shall have the effect of law: Provided always, that the total revenue so raised from the shipping frequenting the port of Galle, inclusive of the pilotage due levied under the "Masters Attendants Ordinance, No. 6 of 1865," shall not exceed the amount which may be required (1) for the payment of the annuity, (2) for the upkeep of the proposed works, and (3) for defraying such other charges as may be necessary for the efficient management, pilotage, and lighting of the port.

Government empowered to raise harbour and other dues.

6. The Crown Agents for the Colonies for the time being are hereby authorized to receive from time to time the monies so borrowed as before provided from the Public Works Loan Commissioners, and to give acknowledgments on behalf of the Ceylon Government for the same, defining in such acknowledgments the times and terms of repayment, with interest, in accordance with the provisions of this Ordinance.

The Crown Agents to receive monies and to grant acknowledgments.

SCHEDULES.

A.

A harbour due on coals, coke, and patent fuel discharged, landed, or transhipped, not exceeding -	2*s.* per ton.

B.

Class 1.

An inward due on registered tonnage of all foreign-going steamers and sailing vessels (except native vessels) landing or transhipping cargo, not exceeding - - - - - -	6*d.* per ton.
An outward due on ditto ditto shipping cargo or coals, not exceeding - - - -	6*d.* do.

Class 2.

An inward due on registered tonnage of all foreign-going native vessels and coastwise vessels (including coastwise steamers), not commuted for the whole Island, landing or transhipping cargo, not exceeding 3*d.* per ton.
An outward due on ditto ditto shipping cargo or coals, not exceeding - - - - 3*d.* do.

Class 3.

An inward due on registered tonnage of all commuted coastwise vessels (including coastwise steamers) of 1*d.* per ton.
An outward due on ditto ditto - 1*d.* do.
An inward due on registered tonnage of all vessels entering in ballast or with cargo, and subsequently leaving the port without breaking bulk - - 1*d.* do.
An outward due on registered tonnage of all vessels leaving the port in ballast or with her inward cargo without having broken bulk - - - 1*d.* do.

Exemptions.

All vessels landing, shipping, or transhipping cargo not exceeding ten tons in all, will be treated as vessels in ballast, under Class 3.

By the term "native vessels" are meant vessels commanded and manned by natives of the East Indies, Ceylon, the Maldives, or the Laccadives.

8th January 1870.

222.

No. 3 of 1870.

An Ordinance to amend the Laws of Marriage in the Kandyan Provinces.

Preamble.

Whereas it is expedient to amend the laws of marriage in the Kandyan provinces of this Island: It is therefore hereby enacted as follows:

Short title.

1. This Ordinance may be cited for all purposes as "The Amended Kandyan Marriage Ordinance, 1870."

2. Has had its effect.

3. Repealing clause.

Interpretation clause.

4. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

Kandyan provinces

The expression "Kandyan provinces" shall mean the provinces enumerated in the Schedule B. hereto annexed:

Marriage.

The word "marriage" shall mean marriage contracted by and between residents in the Kandyan provinces, other than

marriages under the Marriage Ordinances in force in the maritime provinces of this Island, or marriages between persons commonly known as Europeans or their descendants, or persons commonly known as Burghers, or marriages between any such persons and any Sinhalese (whether of the maritime or Kandyan provinces), or marriages between persons professing the Mohammadan faith.

Department.

Division of Kandyan provinces into districts.

5. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation, to divide the Kandyan provinces into districts, for the purposes of the registration of marriages under this Ordinance, and from time to time to alter and amend such division: Provided that the division made under the Ordinance No. 13 of 1859 shall continue in force until the same shall be so altered.

Appointment of Registrar General, provincial registrar, and district registrar.

6. For the purposes of this Ordinance, the Registrar General, appointed under the Marriage Ordinances in force in the maritime provinces, shall also be and act as Registrar General; the Government Agent of any existing province which includes within its limits any portion of the old Kandyan provinces shall be and act as provincial registrar for such portion as aforesaid, and the Assistant Government Agent of each district which includes within its limits any portion of such old Kandyan province, shall be assistant provincial registrar for such portion as is last aforesaid; it shall further be lawful for the Governor from time to time to appoint one or more registrars for each district into which the Kandyan provinces may be divided under the preceding section, and such registrars so appointed at pleasure to remove: Provided that the provincial registrar shall also be deemed to be and shall exercise the powers of registrar in every such district as shall belong to his revenue province as Government Agent, and the assistant provincial registrar shall also be deemed to be and shall exercise the powers of registrar in every such district as shall belong to his revenue district as Assistant Government Agent: Provided further, that the persons heretofore appointed registrars for districts under the Ordinance No. 13 of 1859 shall continue to act (at pleasure as aforesaid) as such under the present Ordinance.

Residence and office of district registrars.

7. Each registrar (other than the provincial and assistant provincial registrars) shall dwell within the district of which he is registrar, and shall cause his name and office to be placed in some conspicuous place, in the English and Sinhalese languages, on or near the outer door of the house appointed by the Government Agent as the office of the registrar of that district.

Marriages before the Ordinance No. 13 *of* 1859.

Marriages contracted before the Ordinance No. 13 of 1859 declared valid.

8. All marriages contracted in any district before the Ordinance No. 13 of 1859 came into operation in such district shall be deemed to have been valid, if they were contracted according to the laws,

institutions, and customs in force amongst the Kandyans at the time of the contract.

Registration of such marriages.

9. It shall be lawful for the provincial registrar or the assistant provincial registrar, in his capacity as district registrar, and he is hereby required, on being applied thereto by the parties, to register any such marriage, if it be shown to his satisfaction that the same was contracted according to the laws, institutions, and customs in force amongst the Kandyans at the time of the contract, and that the man and woman, parties to such marriage, have respectively no other wife or husband living except the wife or husband with whom they desire to register their marriage.

Certain past registrations made valid.

10. The registrations of such marriages heretofore made by registrars without the legal proof of marriage required by the 19th section of the Ordinance No. 13 of 1859 shall be deemed good and valid registrations, anything in the said section of the Ordinance to the contrary notwithstanding.

Marriages since the Ordinance No. 13 *of* 1859.

Marriage not valid unless registered.

11. Except as is hereafter provided, no marriage contracted since the Ordinance No. 13 of 1859 came into operation, or to be hereafter contracted, shall be valid unless registered in manner and form as is herein-after provided, in the presence of any registrar for the district where such marriage is contracted, and at the appointed office of the registrar, or at such other place as the provincial or assistant provincial registrar shall, in any special case, direct and appoint.

What deemed full age.

12. No such marriage shall be valid to which the male party is under sixteen years of age, or the female under twelve years of age; but if the parties shall have continued to cohabit as husband and wife for one year after they shall have attained these ages respectively, or if a child shall have been born to them during the non-age of both or either of them, such marriage shall, in either case, cease to be impeachable and invalid on the ground of non-age.

Consent.

13. The father, if living, of any male under eighteen years of age not being a widower, and of any female under sixteen years of age not being a widow; or, if the father shall be dead, the mother; or if both father and mother shall be dead, the guardian or guardians of the party so under age, or one of them, shall have authority to give consent to and to forbid the registering of such marriage in respect of such party; and such consent is hereby required for the marriage of such party so under age. In case any party whose consent is hereby made necessary as aforesaid to the marriage of such party or parties shall be *non compos mentis*, or in parts beyond the Island, or shall, without good reason, withhold his or her consent, then it shall and may be lawful for the person desiring to marry to apply to the provincial registrar or assistant provincial registrar, who is hereby empowered, after summary inquiry, to give or withhold his consent, as to him shall appear right; then no consent shall be deemed to be required: Provided that after any marriage shall have been contracted it shall not be necessary in support of any such marriage to give any proof of the

consent of any party whose consent thereunto is required by law; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Consanguinity.

14. No such marriage shall be valid where either party shall be directly descended from the other; or where the female shall be the sister of the male, either by the full or the half blood, or the daughter of his brother or of his sister by the full or the half blood, or a descendant from either of them, or the daughter of his wife by another father, or his son's, or grandson's, or father's, or grandfather's widow; or where the male is the son of the brother or sister of the female by the full or half blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's, granddaughter's, mother's, or grandmother's husband; and any marriage or cohabitation between parties standing towards each other in any of the above-enumerated degrees of relationship shall be deemed to be an act of incest, and shall be punishable with imprisonment, with or without hard labour, for a period not exceeding one year.

Notice of marriage.

15. In every case of intended marriage, each of the parties shall give notice of such intention to some registrar of the district in which he or she shall have dwelt for not less than twenty-one days then next preceding, and every such notice shall set forth fully and truly all the names of each such party, and the names (where they shall be different) by which they are commonly known, and their respective places of abode, and whether the marriage is to be contracted in Bínna or Díga, and shall be substantially according to the form in the Schedule C. hereto; and every registrar is hereby required to give gratis a form of such notice to each party applying for the same; and every party giving such notice shall subscribe his or her signature or mark to the same, in the presence of two or more witnesses who shall be known to him or her: Provided that in all cases of marriage intended to be registered, where both of the parties shall be resident in the same district, one notice subscribed by both the parties shall be sufficient.

Registrar to file notice.

16. The registrar shall, on receiving such notice as aforesaid, forthwith file such notice, and keep it with the records of the office, and shall at the same time enter a fair copy of it in a book to be called "the Marriage Notice Book."

Publications of notice.

17. The registrar shall cause publication of every such entry of notice to be made within seven days after such entry, by affixing a copy thereof at some conspicuous place in his office, and by continuing the same so affixed for at least fourteen days; and every person wilfully removing, altering, defacing, or destroying any such copy so affixed, within such period, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds.

Proceeding where the marriage is forbidden.

18. If the registration of any marriage shall be forbidden, the registrar shall forthwith make report thereof to the provincial or assistant provincial registrar, and shall suspend such registration until it shall have been decided whether such marriage ought to take place or not; on the receipt of such report it shall

be the duty of such provincial or assistant provincial registrar to issue notices to the person who forbade the intended marriage, and to the parties intending to marry, to appear, with their witnesses, on a day to be named in such notice, and which shall not be more than seven days from the day of the receipt of the report. On the day named, or any other day to which the said provincial or assistant provincial registrar shall, for good cause shown, adjourn the inquiry, he shall, after hearing the parties, and, if need be, their witnesses, decide whether such marriage shall take place or not. If he shall decide that the marriage shall not take place, then the notice of marriage and all proceedings thereupon shall be null and void; and if he shall decide that there exist no grounds for stopping such marriage, then the notice of marriage and all other proceedings relating thereto shall be held to be valid and sufficient, and the district registrar shall forthwith, or as soon as twenty-one days shall have elapsed since the entry of notice of marriage as aforesaid, register such marriage.

Marriage where and when registered.

19. No registrar shall register any marriage except at the office of the registrar, or such other place as may be appointed in pursuance of the provision in Section 11, nor except between the hours of eight in the morning and six in the afternoon.

Particulars to be asked of the parties.

20. The registrar by whom any marriage is to be registered under this Ordinance shall ask of the parties to be married the several particulars required to be registered touching such marriage, that is to say, their names, age, rank or calling, residences at time of the marriage, the nature of the marriage (whether contracted in Díga or in Binna). Nothing appearing to hinder the registration of the marriage, the registrar shall, in the presence of the witnesses, say to the man in the language of the parties, and causing him to take the woman by the hand:

"Do you take this woman to be your wedded wife?"

On the man answering in the affirmative, the registrar shall say to the woman in the language of the parties, and causing her to take the man by the hand:

"Do you take this man to be your wedded husband?"

As to the form of and particulars to be entered into the books of registry.

And on the woman also answering in the affirmative, the registrar shall forthwith proceed to register, in duplicate, in two of the marriage register books, the several particulars relating to such marriage, substantially according to the Form D. in the schedule hereto, and shall sign every such entry himself, and shall cause the parties married and two witnesses to sign, or, if they cannot sign, to affix their mark thereto. Every such entry shall be made in the same order from the beginning to the end of each book, and the number of the place in each duplicate marriage register book shall be the same, and a copy of such entry shall be furnished to each of the parties to such marriage, at the time of the said marriage, with the certificate in Schedule E. hereto.

Power to refuse to register marriage.

21. In all cases where the registrar ascertains, or has good reason to believe, that any marriage proposed to be registered will be void, it shall be lawful for him to refuse to register such marriage, but he shall in that case forthwith refer the matter to the provincial or assistant provincial registrar, to whom it shall be

competent, after due inquiry made, and if he see fit, to register such marriage, or to cause the same to be registered by the registrar for the district.

22. Any person contracting such marriage which, without fault of the parties to the marriage, may have been omitted to be registered, or may have been erroneously registered, may at any time before any suit in respect of such marriage, or property affected thereby, or after suit, demand to have such marriage correctly registered; and the registrar of whom such registration is demanded shall refer such question also to the provincial or assistant provincial registrar, to whom it shall be competent, after due inquiry, to register such marriage or to cause the same to be registered by the registrar for the district.

Registration of future marriages omitted to be registered.

Dissolution of Marriages.

23. The following shall be the grounds for granting a dissolution of marriage:

Dissolution of marriage.

(1.) Adultery by the wife after marriage:
(2.) Adultery by the husband, coupled with incest or gross cruelty:
(3.) Complete and continued desertion for two years:
(4.) Inability to live happily together, of which actual separation from bed and board for a year shall be the test:
(5.) Mutual consent.

Either party who has a right to apply for such dissolution on the 1st, 2nd, 3rd, and 4th grounds, or both parties who may desire to apply on the 5th ground, may make such application to the provincial registrar or assistant provincial registrar, and if such provincial registrar or assistant provincial registrar shall, upon inquiry, be satisfied of the existence of good cause for the dissolution of marriage, he shall order such dissolution, and make an entry thereof in substantially the Form F. to the schedule hereto annexed in a book to be called the Register of Dissolutions, to be by him kept for that purpose in the registry of the said district; and the marriage of the parties shall from that time be held to be dissolved without prejudice, however, to the children of such marriage born subsequent to its dissolution. If the parties to such dissolution shall have agreed upon any compensation to be made to either or both, owing to such dissolution, it shall be the duty of the provincial or assistant provincial registrar to enter the same in the Register of Dissolutions; and the entry so made shall have all the effect of the order or decree of a competent court and may be enforced as such.

24. And whereas it is made manifest that parties to unions which were declared valid by Section 28 of the Ordinance No. 13 of 1859, have from ignorance of the provisions of the said Ordinance separated from each other since that Ordinance came into operation, and have caused marriages to be registered between them and others, without having previously obtained a decree of divorce from the District Court, as required by that Ordinance, and it is expedient to save them, and the issue of the subsequent

Case of parties to existing marriages who, from ignorance, have registered marriages with others without obtaining a decree from the district court.

connexion, from the consequences of such of their acts, so far as the same can be legitimately done: It is enacted that in all cases in which either party to an existing marriage under the said Section 28 of the said Ordinance, and not dissolved by the decree of a district court, as required by Section 30 thereof, has registered another marriage either as "existing" or "future," mutual consent to the dissolution of the existing marriage shall be presumed, and such registration shall be held to operate also as a dissolution of their previous existing marriage; and the registered marriage shall be deemed to be and to have been valid, and the issue thereof legitimate, whether procreated before or after registration.

Marriages void, owing to non-registration or invalid registration, are made valid.

25. In all cases where a marriage has been contracted since the Ordinance No. 13 of 1859 came into force, according to the laws, institutions, and customs in force in Kandy before that date, and which is void in consequence either of the want of registration or of invalid registration, such marriage shall be deemed and taken to have been a good and valid marriage, and to operate as a dissolution of any former marriage: Provided that no person who shall have heretofore lawfully come into possession of any property, movable or immovable, by reason of the non-registration or of the invalid registration of any marriage, shall be dispossessed thereof, and that the rights of such person, and of all others claiming under him, shall not be in any way affected by reason of such marriage being by this Ordinance made good and valid.

Proviso.

General Provisions.

Polygamy, &c, illegal.

26. Any marriage which shall be contracted during the life of a former husband or wife shall for all purposes be illegal and void, except where the party to such second marriage shall have been divorced from the bond of the first marriage, or where the first marriage shall have been declared void by the decree of some competent court.

Penalty on polygamy, &c.

27. Any person resident in the Kandyan provinces, being married, who shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in such Kandyan provinces or elsewhere, and every person counselling, aiding, and abetting such offender, shall be guilty of an offence, and being convicted thereof, shall be liable to be imprisoned, with or without hard labour, for a period not exceeding three years; and any such offence may be dealt with, inquired of, tried, determined, and punished in the district where the offender shall be apprehended or be in custody, as if the offence had been actually committed in that district: Provided always, that nothing herein contained shall extend to any second marriage contracted out of Ceylon by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who at the time of such second marriage shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have

Where polygamy may be punished.

been declared void by the sentence of any court of competent jurisdiction.

28. The provincial registrar is empowered to suspend any registrar for any breach or neglect of duty or other act that he may deem deserving of suspension; and on suspending any registrar he shall immediately report the suspension and the reasons thereof to the Governor; and the Governor, with the advice of the Executive Council, shall have power to remove such suspension, or to continue the same for a period, or to dismiss him. Suspension and dismissal of district registrar.

29. Any registrar carelessly losing or injuring any register book, or carelessly allowing a register book to be injured while in his keeping, or registering any marriage before all or any of the formalities or matters required by this Ordinance have been duly complied with, or contrary to any of the provisions of this Ordinance, or neglecting to perform any duty hereby imposed upon him, and for which no punishment is otherwise specially provided, shall be liable to a fine not exceeding twenty pounds. Any registrar wilfully destroying or injuring any register book, or wilfully permitting or causing any such book to be destroyed or injured, or falsely making or counterfeiting, or permitting or causing to be falsely made or counterfeited, any part of a register book, or wilfully inserting or permitting or causing to be inserted, in any register book, or certified copy thereof, any false entry, or wilfully giving a false certified copy of a register book, or permitting or causing any such false certified copy to be given, or certifying any writing to be a copy or extract of a registrar book, or permitting or causing such false certified copy to be given, or certifying any writing to be a copy or extract of a register book, knowing the said portion so copied or extracted to be false in any part thereof, shall be guilty of an offence, and be liable on conviction to imprisonment, with or without hard labour, for a period not exceeding seven years: Provided that nothing herein contained shall be held to absolve the registrar from any civil responsibility in damages to any person who may be aggrieved in consequence of any negligence, irregularity of proceeding, abuse of authority, or other act of commission or omission on his part. Penalties for certain acts of registrars. Proviso.

30. Every marriage registered under the provisions of this Ordinance shall render legitimate any children who may have been procreated by the parties thereto previous to their intermarriage, and such children shall become and be entitled to the same and the like rights as if they had been procreated by the said parties subsequent to their intermarriage. Children legitimatized by subsequent marriage of parents.

31. Nothing in the Ordinance No. 6 of 1847, intituled "An "Ordinance to amend in certain respects the law of marriages, "and to provide for the better registration of marriages, births, "and deaths," or in any other Ordinance relating to marriages in the maritime provinces, shall be deemed to extend or to have at any time extended to marriages contracted in the Kandyan provinces by residents thereof, according to the laws, manners, and customs existing and in force amongst the Kandyans. No. 6 of 1847, &c. of no force in Kandyan provinces.

32. Whenever it shall be necessary for provincial and assistant provincial registrars to make any inquiry under the provisions of Provincial and sub-provincial

registrars empowered to enforce attendance and evidence of persons to be examined.

this Ordinance, it shall be lawful for them and they are hereby empowered to enforce the attendance of any persons whom they may desire to examine by summons and warrant, and to examine them on oath; and any person failing or refusing to attend, or having attended refusing to be sworn, or to give information, or giving false information, shall be guilty of an offence, and shall be liable to a fine not exceeding ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding one year, or to both; and it shall be lawful for the provincial registrar or assistant provincial registrar to order the payment of any fine to be made in the police court of the district in which such person resides; and if such payment shall not be made as directed, the said police court shall proceed to enforce the same, and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if the said fine had been imposed by such court.

Register Books, Extracts, Returns, &c.

Register books.

33. The provincial registrar shall cause to be printed a sufficient number of books for making entries of notices and marriages and dissolutions, according to the forms in the schedule hereto; and such register books shall be of durable materials, and in them shall be printed on each side of every leaf the heads of information herein required to be known and registered; every page of each book shall be numbered progressively from beginning to end, beginning with number one; and every place of entry shall be also numbered from the beginning to the end, beginning with number one, and every entry shall be divided from the following entry by a printed line. Each registrar shall be furnished with books of registry in duplicate, and a sufficient number of forms of certified copies thereof, according to the forms in the schedule to this Ordinance annexed.

Duplicates, extracts, and returns to be made by registrars to the Government Agent.

34. Each registrar shall in the months of January, April, July, and October respectively make and deliver to the provincial or assistant provincial registrar a true copy, certified by him under his hand as in Schedule G. hereto annexed, of all the entries of marriages in the registry book kept by him since the last certified copy. If there shall be no marriage entered in a register book before the first day of the above-mentioned months, after this Ordinance shall have been brought into operation in any particular districts, or in subsequent periods since the last certified copy, the registrar shall at the time aforesaid certify the same under his hand to the provincial or assistant provincial registrar.

Provincial registrar may inspect books and amend errors.

35. It shall be lawful to the provincial registrar or assistant provincial registrar to inspect the registry books from time to time, and to cause any mere clerical errors therein, or in any copy furnished to him, to be amended.

Books how disposed of.

36. The registrar shall keep the marriage book safely, in duplicate, and when the register books are filled the registrar shall deliver one of the books to the provincial registrar or assistant provincial registrar, and the other he shall keep safely in the place appointed as his office.

37. It shall be lawful for the Governor from time to time, with the advice of the Executive Council, to make regulations for the direction of the registrars in the discharge of their duties, and for the maintenance of such officers or establishments as may be necessary thereto, and from time to time to amend the forms given in the schedules to this Ordinance annexed.

The Governor to make regulations.

38. Every person claiming interest in any marriage shall be entitled at all reasonable hours to inspect the books of the registrar on payment of threepence, and to obtain a certified copy of any entry therein on payment of sixpence.

Inspection and copies of registry books, &c.

39. The entry as aforesaid in the register of marriages and in the register of divorces shall be the best evidence of the marriage contracted or dissolved by the parties, and of the other facts stated therein. If it does not appear in the register whether the marriage was contracted in Bínma or in Díga, such marriage shall be presumed to have been contracted in Díga until the contrary be shown.

Entries in registry to be the best evidence.

Presumption if registry silent as to nature of marriage.

SCHEDULE.

A.

(§ 3.)

Ordinance No. 13 of 1859, entitled "An Ordinance to amend the laws of marriage in the Kandyan provinces."

Ordinance No. 4 of 1860, entitled, "An Ordinance to alter and amend a certain proclamation, dated the 30th June 1860."

Ordinance No. 8 of 1860, entitled "An Ordinance to give effect to certain rules and orders made under the Ordinance No. 13 of 1859."

Ordinance No. 8 of 1861, entitled "An Ordinance to amend the Ordinance No. 13 of 1859."

Ordinance No. 14 of 1866, entitled "An Ordinance relating to Kandyan marriages."

B.

(§ 4.)

The Central Province.

Seven Kóralés - -	North-western Province.
Demalapattu of Puttalam	North-western Province.
The Uḍa, Pallé, and Radda Palatas of Bintenna; the Vannames of Nadene, Nadocadoo, and Akkarapattu; the Siṇhalese villages in the Division of Panawa—all in the Batticaloa district. Taman Kaḍuwa; the Siṇhalese villages in the Kaḍḍukulam Pattu, in the district of Trincomalee -	Eastern Province.
Sabaragamuwa - - - -	Western Province.
Four and Three Kóralés and Lower Bulatgama - - - - -	Western Province.

Yakawala, in the Southern Province.

Nuwarakaláwiya, in the Northern Province.

C.

(§ 15.)

NOTICE OF MARRIAGE.

To the Registrar of Marriages in the District of (*Gampola*).

I hereby give notice that a marriage is intended to be had within three months from the date hereof, between me and the other party herein named and described; (that is to say,)

Name.	Rank or calling.	Age.	Dwelling place.	District in which the other party resides, when the parties dwell in different districts.
Tikiri Bandá - -	*Agriculturist* - -	25 *years* -	*Teldeniya* - -	—
Kiri Menikā - -	—	16 *years* -	*Dumbara* - -	—

D.

(§ 20.)

FORM OF ENTRY IN MARRIAGE REGISTER BOOK.

No.	Date of marriage.	Names in full.	Ages.	Rank or calling.	Residence at time of marriage.	Name of father in full.	Whether marriage in Bínna or Díga.
	1870.	*Tikiri Bandá* - -	25 *years*	*Agriculturist* - -	*Teldeniya*	- - -	*Díga.*
	May 30.	*Kiri Menikā* - -	16 *years*	—	*Dumbara*		

This marriage was entered into between us, { *Tikiri Bandá.* / *Kiri Menika,* + } in the presence of { *Kiri Appu.* / *Kalu Menikā.* }

E.

(§ 20.)

FORM OF CERTIFICATE to be appended to copies of entries furnished to private individuals.

I, *Punchi Appuhámi*, registrar of the *Kandy* district, in the *Central* province, do hereby certify that this is a true copy of the entry of the marriage of *A.B.* and *C.D.* therein mentioned.

Witness my hand this *first* day of *August* A.D. *one thousand eight hundred and sixty-nine.*

(*Signature of Registrar.*)

[Note.—The words and figures in *italics* are to be filled up as the case may be.]

F.

(§ 23.)

FORM OF DISSOLUTION OF MARRIAGE.

I hereby order that the marriage between *A.* and *B.* (*describe registry, if any, or how marriage contracted*) be dissolved on the following ground; to wit (*here insert ground*).

I certify that, according to the representations of the parties, they have had during their marriage children, as follows: (*name and age*).

I further certify that the parties have agreed that the following compensation shall be made (*describe compensation agreed to*).

This order is registered in Registry of Dissolution (*give number, page, and district*).

This day of 1870.

A.B.,
Provincial Registrar.

G.

(§ 34.)

FORM OF CERTIFICATE to be forwarded with the certified copy to the Government Agent.

I, *Punchi Appuhámi*, registrar of the *Kandy* district, in the *Central* province, do hereby certify that this is a true copy of the entries of marriage registered in my office from the entry of the marriage of *A.B.* and *C.D.*, number *one*, to the entry of the marriage of *E.F.* and *G.H.*, number *fourteen.*

Witness my hand this *second* day of *October one thousand eight hundred and seventy.*

(*Signature of Registrar.*)

12th January 1870.

223.

No. 4 OF 1870.

An Ordinance to define the Services due by the Pravéni Tenants of Wiháragama, Déwálagama, and Nindagama Lands, and to provide for the Commutation of those services.

Preamble.

WHEREAS by an order of His late Majesty King William the Fourth in Council, bearing date the twelfth day of April 1832, the liability of the Native and Indian inhabitants of this Island to render various services to the Government in respect of the tenure of their lands, or in respect of their caste or otherwise, was abolished, but it was thereby provided that nothing therein contained should be construed to affect the services which the tenants of any lands in any royal villages in the Kandyan provinces were bound to render so long as they continued tenants of such lands upon such tenures, or the services which the tenants of any lands in any temple villages in the said Kandyan provinces were bound to render to any temple so long as they continued tenants of such lands, or the services which the tenants of lands in any other villages in the said Kandyan provinces were bound to render to the proprietors of such villages so long as they continued tenants of such lands: And whereas the enforcement of services for lands in the royal villages has been long since abandoned by the Government, and there is much in the nature of the services which are still retained which is repugnant to the constitution of the Colony, and which tends to check its advancement and improvement, and it is desirable to take steps to encourage their commutation: It is hereby enacted as follows:

Short title.

1. This Ordinance may be cited for all purposes as "The Service Tenures Ordinance, 1870."

2. Has had its effect.

Interpretation clause.

3. The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The word "temple" shall include Wihára and Déwála:

The expression "Pravéni Pangu" shall mean an allotment or share of land in a temple or Nindagama village held in perpetuity by one or more holders, subject to the performance of certain services to the temple or Nindagama proprietor:

The expression "Máruwena Pangu" shall mean an allotment or share of land in a temple or Nindagama village held by one or more tenants at will:

The expression "Wiháragama proprietor" or "Déwálagama proprietor" shall include the officer of any Wihára or Déwála respectively entitled to demand services from any Pravéni Nilakárayá or Máruwena Nilakárayá, for and in respect of a Paravéni Pangu or Máruwena Pangu held by him:

The expression "Nindagama proprietor" shall mean any proprietor of Nindagama entitled to demand services from any

Pravéni Nilakárayá or Máruwena Nilakárayá, for and in respect of a Pravéni Pangu or Máruwena Pangu held by him :

The expression "Pravéni Nilakárayá" shall mean the holder of a Pravéni Pangu in perpetuity, subject to the performance of certain services to the temple or Nindagama proprietor :

The expression "Máruwena Nilakárayá" shall mean the tenant at will of a Máruwena Pangu :

The expression "Government Agent" shall include the Assistant Government Agents of the revenue districts into which the province may be divided, and to which said revenue districts the village or villages thereof in which services are to be defined under this Ordinance may belong.

I.—*Department and Officers.*

Governor to appoint Commissioners to carry this Ordinance into effect.

Clerks and other ministerial officers.

Any one Commissioner competent to act.

4. It shall be lawful for the Governor to appoint one or more persons, not exceeding three in number, to be the Commissioner or Commissioners for each district specified in such appointment, for carrying into effect the provisions of this Ordinance, and for executing the several powers hereby conferred upon him or them, and to appoint such clerks or other ministerial officers as to him may appear necessary, and to direct to be paid out of the colonial treasury to such Commissioners, clerks, and other officers, or any of them, such reasonable remuneration as to the Governor, with the advice of the Executive Council, shall seem fit. The powers and duties hereby conferred and imposed upon the Commissioners may be exercised and performed by any one of them.

Oath.

5. Every such Commissioner shall, before proceeding to execute any of the powers and duties hereby conferred and imposed upon him, take and subscribe the oath of allegiance and the official oath.

Commissioner not to be purchaser of land.

6. No such Commissioner, clerk, or other officer shall be capable, whilst such commission is being held, of being a purchaser, either in his own name or in the name or names of any other person, of any lands belonging to any temple or Nindagama proprietor or Pravéni Pangukárayá.

Proceedings of Commissioners to be with open doors.

7. The proceedings of the Commissioners in the investigation of any claims and in the settlement of any disputes in virtue of the provisions of this Ordinance shall be carried on, and the decisions and orders of such Commissioners shall be reduced to writing and shall be pronounced and declared, with open doors.

II.—*Investigation and Settlement of Claims.*

Commissioners to call upon headmen and temple and Nindagama proprietors for lists of Panguwas held by them.

8. So soon as reasonably may be after this Ordinance shall come into operation, the Commissioners appointed by virtue hereof for any district shall cause notice to be published in any village in such district specified in the notice, calling upon the headmen of such village or district, and upon the Wiháragama, Déwálagama, and Nindagama proprietors of all Pravéni or Máruwena Pangus in such village to produce or forward to them at such times and

places as they shall appoint a list of all the Pravéni or Máruwna Paṇgus held by such proprietors, with an enumeration of the services in detail of the Pravéni Paṇgus, setting forth the names (so far as the same can be ascertained) of the proprietors and holders, and the nature and extent of the services due for each Pravéni Paṇgu: Provided that it shall be lawful for any proprietor, instead of producing or transmitting such lists, to state verbally to such Commissioners the particulars of his claim; and it shall be the duty of such Commissioners thereupon to take down in writing such particulars, and to require such person to sign the same, or, in case of inability, the same shall be signed by the Commissioner by whom such claim has been reduced to writing.

Notice by Commissioners that they will inquire into claims, and calling upon all parties interested to appear.

9. It shall be the duty of the Commissioners, within a reasonable time after the expiration of the time fixed in such notice for the receipt of the lists from the Wiháragama, Déwálagama, and Nindagama proprietors, to cause further notice to be published in such village of their intention to inquire, on a day to be named in such notice, into the nature of the tenure of each Paṇgu therein subject to service, whether it be Pravéni or Máruwena, and into all claims for services in respect of the Pravéni Paṇgus in such village, and calling upon all proprietors and Nilakárayás and persons claiming interest in the Paṇgus in such village, for or in respect of which services may be due, whether as Pravéni Nilakárayás or by Máruwena Nilakárayás, to appear before them at the place and on the day and days named in such notice, with a view to such inquiry. It shall further be the duty of the Commissioners to cause personal notice to be served on all proprietors and Nilakárayás of such intention, and if personal notice cannot be served owing to the absence of any of them from such village or district, then to cause notice to be left at the known place of abode, and, if practicable, with some adult member of his family. The Commissioners shall also serve on the holders of each Paṇgu, with such notice, a copy of particulars touching such Paṇgu furnished by the proprietors and headmen.

Personal notice.

Copy of particulars.

Commissioners to inquire into claims.

10. On the day appointed in such notice the Commissioners shall enter into their inquiries, and shall then, or on such other early day as they shall then and there from time to time publicly appoint, shall hear, try, and determine as follows:

(1.) The tenure of each Paṇgu subject to service in the village, whether it be Pravéni or Máruwena:

(2.) The names, so far as the same can be ascertained, of the proprietors and holders of each Pravéni Paṇgu:

(3.) The nature and extent of the services due for each Pravéni Paṇgu:

(4.) The annual amount of money payment for which such services may be fairly commuted at the time the registries are made.

Their determination shall be final.

And their determination shall be final and conclusive in that or any future proceeding, whether before the said Commissioners or any other judicial tribunal, as to the tenure of the Paṇgus in such

village, whether it be Pravéni or Máruwena, the nature of the service due for and in respect of each Pravéni Pangu, and the annual amount of money payment for which the services due for each Pravéni Pangu may be fairly commuted at the time those registries are made.

Registries of claims.

11. So soon as the Commissioners shall complete their inquiry into the claims in any village, they shall cause to be numbered and entered in a book of registry a list of Pravéni Pangus in such village, and shall further cause to be entered the names, so far as the same can be ascertained, of the proprietors and tenants of each Pangu, the nature and extent of the services due for such Pangu, and the annual amount of money payment for which such services may be fairly commuted at the time the registry is made, and shall duly sign such registry and transmit the same to the kachchéri of the district. It shall be the duty of the Government Agent to cause all these registries to be safely kept and preserved in such kachchéri, and to grant inspection and certified copies thereof on the application (written on a stamp of two shillings) of parties interested in such inquiry; and registries and certified copies, signed by the Government Agent, shall form thereafter the best evidence of the tenure of each Pangu, of the nature and extent of the services due for such Pangu, and the annual amount of money payment for which such services may be fairly commuted at the time the registry is made.

Inspection and certified copies.

Joinder of all the proprietors and holders not necessary.

12. It shall not be necessary for the validity of any proceeding for the investigation and settlement of claims under this Ordinance that all the holders and all the proprietors shall have joined or should be named therein. The finding of the Commissioners shall be binding and conclusive as respects only the services due for and in respect of the Pangu and the money value of such services, but shall not affect the liability of holders to perform service as between themselves, or the right of proprietors as between themselves to exact such services or their value, in case the services shall have been declared commuted.

Commissioners may limit time and area within which service is to be rendered.

13. It shall be lawful for the Commissioners in defining the services to limit the time and area within which personal services may be exacted, and an entry of such limitation when made shall in all cases be entered in the registry.

III.—*Commutation.*

Application to commute to be made to Commissioners pending commission, or to the agent at close of commission.

14. If any Pravéni Nilakárayá shall be desirous of commuting any service as aforesaid for a money payment, he shall, during the pendency of the Commission, (and the Commission shall be held to be pending until the Governor shall declare it to be at an end by notice in the "Government Gazette,") transmit to the Commissioners, and, after the close of the commission, to the Government Agent of the district in which the Pravéni Pangu is situated, an application in writing to that effect, which application shall set forth the name of the party making it, the name and number of the Pangu in respect of which such service may be due, and the name of the village in which the same is situated.

If there be more than one Pravéni Nilakárayá in any Pravéni Paṇgu, the application to commute must be made or acquiesced in by a majority of the entire number of Nilakárayás who shall have attained the age of sixteen years. The Commissioners or the Government Agent to whom such application shall be made shall issue a notice to the proprietor of the Paṇgu, informing him that, on a day to be named in such notice, the application will be considered and determined upon. A copy of the application must be served with the notice.

The Commissioners or agent to ascertain summarily whether all Nilakárayás have joined, and the value of the services.

15. On the returnable day of the said notice, the Commissioners or Government Agent to whom such application shall be made shall proceed summarily to ascertain whether the Nilakáráyas of the Paṇgu who shall have attained the age of sixteen years have all joined or acquiesced in the application and (if three years shall have expired since the date of the registry of the Paṇgu) whether the services may still be fairly commuted at the amount fixed in the registry, or whether they have risen or fallen in value, and to what extent. Having satisfied themselves or himself on this point, they shall proceed to order that the services for and in respect of the land shall stand commuted (if three years shall not have expired since the date of the registry) for the annual money payment appearing in such registry, or (if three years shall have expired since such date) for the same or such other sum as the said Commissioner or Government Agent may consider just or reasonable. The order so made under this section shall be final and conclusive and binding upon all the proprietors and Nilakárayás (even though they may not be parties to the application, in that or any future proceeding, whether before the said Commissioners, Government Agent, or any judicial tribunal), as to the liability of the Nilakárayás to pay commuted dues and not to render services for such Paṇgu; and all right to service from the Nilakárayás of such Paṇgu shall thereupon for ever cease and be at an end, and the said Nilakárayás shall be thenceforth liable to pay to the proprietors, in equal half-yearly instalments, the dates whereof shall be fixed by the Commissioners or court, the annual amount of money payment due for and in respect of the said services; and such commuted dues shall thenceforth be deemed to be a head rent due to the proprietor for and in respect of the Paṇgu, and shall be recoverable in the manner herein-after prescribed.

Order to commute and for the sum named shall be final.

Commuted dues to be thenceforth deemed head rent.

Entry of commutation in registries.

16. The Commissioners (if the commission shall be still pending), or (if the commutation shall be ordered by the Government Agent) the Government Agent, shall make an entry of the commutation, and of the terms thereof, in the registers of the Commission; and the Government Agent shall allow inspection of such entries and certified copies thereof, on the application (written on a stamped paper of two shillings) of parties interested therein, and such entries or certified copies thereof shall form thereafter the best evidence of the liability of the Nilakárayás of the said Paṇgu to pay commuted dues, and not to render services for such Paṇgu.

Inspection, entries, and certified copies of registries.

Provision for the payment of

17. No commutation of any Nindagama Paṇgu, liable to pay tithe to Government, shall have the effect of relieving the Paṇgu

from its liability for such tithe as a primary charge thereon: Provided always, that no Pravéni Nilakáraya shall be liable to pay both tithe to the Government and the whole of the commuted dues to the proprietor; and provided also that in cases in which the service and the tithe have both been commuted, it shall be competent to the Nindagama proprietor, should he desire to do so, to transfer to the holder the payment of the tithe to Government, retaining only the difference, if any, between the commuted tithe and the commuted services.

tithe to Government, where such tithe is due for any Pangu commuted.

V.—*General Provisions.*

18. In the execution of the powers vested in such Commissioners or the Government Agent by virtue of this Ordinance, they shall be guided by equity and good conscience only, and by the best evidence that can or may be procured, although not such as would be required or be admissible in ordinary cases; nor shall they be bound by the strict rules of law in any case, or by any technicalities or legal forms whatever; and it shall be lawful for the said Commissioners or Government Agent, if they think proper, to examine on oath the parties, or any of them, making or opposing any claim investigated or inquired into by such Commissioners, touching any of the matters in dispute.

Commissioners and Government Agent to be guided by equity, and not bound by the strict rules of law;

and may examine the parties on oath.

19. It shall be lawful to and for the said Commissioners and Government Agent from time to time, as they shall see occasion by any writing under their hands, to summon and require any person to appear before them at any time and place in such writing to be appointed, to testify the truth touching any claim or any matter in dispute between any proprietors and tenants, or otherwise relating to the execution of the powers given by this Ordinance, and to produce in evidence all deeds, instruments, surveys, or writings in the possession or control of any such person, in so far as the same shall be necessary for the due investigation of any such claim or dispute, or for enabling the said Commissioners and Government Agent duly to execute the powers given by this Ordinance; and to cause a copy of such writing to be served on such person required to give evidence, or to produce such deeds, instruments, surveys, or writings, or to be left at his usual and last place of abode; and every person so summoned who shall not appear before such Commissioners or Government Agent pursuant to such summons (without assigning some reasonable excuse for not appearing) or appearing shall without sufficient cause refuse to be sworn or examined on oath (which such Commissioners or Government Agent are hereby empowered and required to administer), or shall without sufficient cause refuse or wilfully neglect to produce any such deeds, instruments, surveys, or writings, shall for every such neglect or refusal forfeit and pay such sum of money not exceeding five pounds sterling as such Commissioners or Government Agent shall think fit and order; and it shall be lawful for the Commissioners or Government Agent in such order to direct payment of any such fine to be made into the police court of the district in which such person

Commissioners, &c. to have powers to summon witnesses.

Penalty for not obeying the summons.

resides; and if payment should not be made as directed the said police court shall proceed to enforce the same, and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if the said fine had been imposed by such court.

Evidence to be reduced to writing, and signed.

20. All evidence given before such Commissioners or Government Agent shall be taken down in writing in presence of the witnesses respectively giving the same, and shall at the time of their examination be signed by them, or, in case of their refusal or inability to sign, by the Commissioner or Government Agent by whom the same has been reduced to writing; and if any person shall in any examination, affidavit, or deposition to be had or taken in pursuance of this Ordinance before any such Commissioners or Government Agent, knowingly and wilfully swear to any matter or thing which shall be false, every such person so offending shall be deemed guilty of perjury, and shall on conviction suffer the like pains and penalties as persons guilty of wilful and corrupt perjury are now subject and liable to.

Persons swearing falsely to be deemed guilty of perjury.

Notices how published.

21. All notices required to be given under this Ordinance shall be published in the village referred to in them by beat of tom-tom, once or oftener, by the affixing of copies on some conspicuous places in the village, and on the walls of the nearest kachchéri and court house, by being proclaimed once or oftener in the presence of the suitors and others in the court, and by such other means as may secure the greatest publicity thereto. If the notice is directed to any proprietor or Nilakárayá, it shall be served personally, or, if personal service cannot be secured, by affixing the same to his last-known place of abode.

Adjournments.

22. It shall be lawful to the Commissioners to adjourn their sittings and inquiries once or oftener if necessary.

Aggrieved persons may apply to the Executive Government for relief.

23. Any person aggrieved with the determination of the Commissioners under section 10, or of the Commissioners or Agent under section 15, shall be entitled to apply to the Governor for relief at any time within one month after such determination shall be made known to him. It shall be lawful for the Governor, with the advice of the Executive Council, upon such application, to confirm the determination of the Commissioners or Agent, or to alter or modify the same, as to them shall appear right, and to cause his decision to be entered in the register, and such decision, so entered, shall be deemed the determination as respects the Pangu to which it relates.

Arrears of personal services prescribed in a year.
Arrears of commuted dues in two years.
If no services rendered or commutation paid for ten years, right to claim services or dues lost for ever.

24. Arrears of personal services in cases where the Pravéni Nilakárayá shall not have commuted shall not be recoverable for any period beyond a year; arrears of commuted dues, where the Pravéni Nilakárayá shall have commuted, shall not be recoverable for any period beyond two years. If no services shall have been rendered, and no commuted dues be paid for ten years, and no action shall have been brought therefor, the right to claim services or commuted dues shall be deemed to have been lost for ever, and the Pangu shall be deemed free thereafter from any liability on the part of the Nilakárayás to render services or pay commuted dues therefor: Provided, however, that if at the time of such right

of action accruing the proprietor shall not be resident within this Island, or if by reason of his minority or insanity he shall be disabled from instituting such action, the period of prescription of such action shall begin to run, in every such case, from the time when such absence or disability shall have ceased.

Proviso in case of absence or disability

25. It shall be lawful for any proprietor to recover damages in any competent court against the holder or holders of any Pravéni Pangu who shall not have commuted, and who shall have failed to render the services defined in the registry herein-before referred to. In assessing such damages, it shall be competent for the court to award not only the sum for which the services shall have been assessed by the Commissioners for the purpose of perpetual commutation, but such further sum as it shall consider fair and reasonable to cover the actual damages sustained by the proprietor through the default of the Nilakáraya or Nilakárayás to render such personal services at the time when they were due; but it shall not be lawful for any proprietor to proceed to ejectment against his Pravéni Nilakárayá for default of performing services or paying commuted dues; the value of those services or dues shall be recoverable against such Nilakárayá by seizure and sale of the crop or fruits on the Paṇgu, or failing these, by the personal property of such Nilakárayá, or failing both, by a sale of the Paṇgu, subject to the personal services, or commuted dues in lieu thereof, due thereon to the proprietor. The proceeds of such sale are to be applied in payment of the amount due to the proprietor, and the balance, if any, shall be paid to the evicted Nilakárayás, unless there should be any puisne incumbrance upon the holding, in which case such balance shall be applied to satisfy such incumbrance.

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12th January 1870.

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